

SESSION LAWS OF MISSOURI

**Passed during the
NINETY-THIRD GENERAL ASSEMBLY**

First Extraordinary Session, which convened at the City of Jefferson,
Tuesday, September 6, 2005, and adjourned Thursday, September 15, 2005

Second Regular Session, which convened at the City of Jefferson,
Wednesday, January 4, 2006, and adjourned May 30, 2006.

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**Published by the
MISSOURI JOINT
COMMITTEE ON
LEGISLATIVE RESEARCH**

In compliance with Sections 2.030 and 2.040,
Revised Statutes of Missouri, 2005

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2005 - 2006

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HOW TO USE THE SESSION LAWS

The first pages contain the *Popular Name Table* and the *Table of Sections Affected by 2005 Legislation* from the First Extraordinary Session, and the *Table of Sections Affected by 2006 Legislation* from the Second Regular Session.

The following pages contain the text of the bills from the First Extraordinary Session.

The text of all 2006 House and Senate Bills and the Concurrent Resolutions appear next. The appropriation bills are presented first, with all others following in numerical order.

A subject index is included at the end of this volume.

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Authority for Publishing Session Laws and Resolutions

Section 2.030, Revised Statutes of Missouri, 2005. — Legislative Research to provide for printing and binding of laws. — The joint committee on legislative research shall annually collate, index, print, and bind all laws and resolutions passed or adopted by the general assembly and all measures approved by the people since the last publication of the session laws. Any edition of the session laws published pursuant to this section is a part of the official laws and resolutions of the general assembly at which the laws and resolutions were passed.

Section 2.040, Revised Statutes of Missouri, 2005. — Duties of Legislative Research in printing and binding. — The joint committee on legislative research shall provide copies of all laws, measures and resolutions duly enacted by the general assembly and all amendments to the constitution and all measures approved by the people since the last publication of the session laws pursuant to section 2.030, giving the date of the approval or adoption thereof. The joint committee on legislative research shall headnote, collate, index the laws, resolutions and constitutional amendments, and compare the proof sheets of the printed copies with the original rolls. The revisor of statutes shall insert therein an attestation under the revisor's hand that the revisor has compared the laws, resolutions, constitutional amendments and measures therein contained with the original rolls and copies in the office of the secretary of state and that the same are true copies of such laws, measures, resolutions and constitutional amendments as the same appear in the original rolls in the office of the secretary of state. The joint committee on legislative research shall cause the completed laws, resolutions and constitutional amendments to be printed and bound.

ATTESTATION

STATE OF MISSOURI)

) ss.

City of Jefferson)

I, Patricia L. Buxton, Revisor of Statutes, hereby certify that I have collated carefully the laws and resolutions passed by the Ninety-third General Assembly of the State of Missouri, convened in first extraordinary session and second regular session, as they are contained in the following pages, and have compared them with the original rolls and have corrected them thereby. Headnotes are used for the convenience of the reader and are not part of the laws they precede.

IN TESTIMONY WHEREOF, I have hereunto set my hand at my office in the City of Jefferson this nineteenth day of July A.D. two thousand six.

PATRICIA L. BUXTON
REVISOR OF STATUTES

EFFECTIVE DATE OF LAWS

Section 29, Article III of the Constitution provides:

“No law passed by the general assembly, except an appropriation act, shall take effect until ninety days after the adjournment of the session in either odd-numbered or even-numbered years at which it was enacted. However, in case of an emergency which must be expressed in the preamble or in the body of the act, the general assembly by a two-thirds vote of the members elected to each house, taken by yeas and nays may otherwise direct; and further except that, if the general assembly recesses for thirty days or more it may prescribe by joint resolution that laws previously passed and not effective shall take effect ninety days from the beginning of the recess.”

The Ninety-third General Assembly, First Extraordinary Session, convened Tuesday, September 6, 2005, and adjourned Thursday, September 15, 2005. Three of the four bills passed during this extraordinary session contained emergency clauses and became effective on September 15, 2005. Senate Bill 4 did not contain an emergency clause and became effective December 14, 2005.

The Ninety-third General Assembly, Second Regular Session, convened Wednesday, January 4, 2006, and adjourned May 30, 2006. All laws passed by it (other than appropriation acts, those having emergency clauses or different effective dates) became effective ninety days thereafter on August 28, 2006.

JOINT RESOLUTIONS AND INITIATIVE PETITIONS

Section 2(b), Article XII of the Constitution provides:

“All amendments proposed by the general assembly or by the initiative shall be submitted to the electors for their approval or rejection by official ballot title as may be provided by law, on a separate ballot without party designation, at the next general election, or at a special election called by the governor prior thereto, at which he may submit any of the amendments..... If a majority of the votes cast thereon is in favor of any amendment, the same shall take effect at the end of thirty days after the election. More than one amendment at the same election shall be so submitted as to enable the electors to vote on each amendment separately.”

The Ninety-third General Assembly, Second Regular Session, passed two Joint Resolutions. Resolutions are to be published as provided in Section 116.340, RSMo 2000, which reads:

“116.340. Publication of approved measures. — When a statewide ballot measure is approved by the voters, the secretary of state* shall publish it with the laws enacted by the following session of the general assembly, and the revisor of statutes shall include it in the next edition or supplement of the revised statutes of Missouri. Each of the measures printed above shall include the date of the proclamation or statement of approval under section 116.330.”

*The publication of session laws was delegated to the Joint Committee on Legislative Research in 1997 by Senate Bill 459, section 2.040.

The headnotes used to describe sections printed in this volume may not be identical with the headnotes which appear in the 2006 Supplement to the Revised Statutes of Missouri. Every attempt has been made to develop headnotes which adequately describe the textual material contained in the section.



The Joint Committee on Legislative Research is pleased to state that the *2006 Session Laws* is produced with soy-based ink.

POPULAR NAME TABLE

2006 LEGISLATION

Eminent Domain, HB 1944

Ethanol, HB 1270

Funeral Protests, Spc. Edward Lee Myers Law, HB 1026, SB 578

Homestead Preservation Act, SB 630

Jessica's Law (Sex Offenders), HB 1698

Missouri Homestead Preservation Act, SB 630

Move Over Law, SB 872

Residential Treatment Agency Tax Credit Act, SB 614

St. Louis City, Toll Bridge Over the Mississippi River, HB 1380

Smart Moves, Transit Tax, SB 825

Toll Bridge Over the Mississippi River in St. Louis City, HB 1380

Virtual Schools, SB 912

Voter ID, SB 1014

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TABLE OF SECTIONS AFFECTED BY 2005 FIRST EXTRAORDINARY SESSION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
188.031	New	SB 1	311.310 e	Amended	HB 2
188.080	Amended	SB 1	565.024 f	Amended	HB 2
188.250	New	SB 1	568.050 g	Amended	HB 2
210.117 a	Amended	HB 2	577.023 h	Amended	HB 2
211.038 b	Amended	HB 2	577.625 i	Amended	HB 2
211.181 c	Amended	HB 2	577.628 j	Amended	HB 2
287.110 d	Amended	SB 4	578.450 k	Amended	HB 3

HB 2 effective 9-15-05

HB 3 effective 9-15-05

SB 1 effective 9-15-05

SB 4 effective 12-14-05

- a Section 210.117 previously had three versions after the 93rd General Assembly, First Regular Session, 2005. During the First Extraordinary Session, HB 2 repealed the version enacted by HB 568 and the version enacted by SB 155. HB 2 further amended the version enacted by SB 420 & 344, which became effective September 15, 2005.
- b Section 211.038 was amended by three bills during the 93rd General Assembly, First Regular Session, 2005, but was merged into one section. During the First Extraordinary Session, HB 2 repealed the merged version and further amended section 211.038, which became effective September 15, 2005.
- c Section 211.181 was amended during the 93rd General Assembly, First Regular Session, 2005. During the First Extraordinary Session, HB 2 further amended this section, which became effective September 15, 2005.
- d Section 287.110 of the 93rd General Assembly, First Regular Session, 2005, was further amended by SB 4 of the First Extraordinary Session, but did not become effective until December 14, 2005.
- e Section 311.310 previously had two versions after the 93rd General Assembly, First Regular Session, 2005. During the First Extraordinary Session, HB 2 repealed the version containing HB 972 merged with SB 37, et al., and further amended the version enacted by SB 402, which became effective September 15, 2005.

TABLE OF SECTIONS AFFECTED BY 2005 FIRST EXTRAORDINARY SESSION

- f Section 565.024 was amended by two bills during the 93rd General Assembly, First Regular Session, 2005, but was merged into one section. During the First Extraordinary Session, HB 2 repealed the merged version and further amended section 565.024, which became effective September 15, 2005.
- g Section 568.050 previously had two versions after the 93rd General Assembly, First Regular Session, 2005. During the First Extraordinary Session, HB 2 repealed the version containing the language from HB 972 merged with SB 37, et al., and further amended the version enacted by HB 353, which became effective September 15, 2005.
- h Section 577.023 previously had two versions after the 93rd General Assembly, First Regular Session, 2005. During the First Extraordinary Session, HB 2 repealed the version containing the language from SB 37, et al. merged with HB 353, and further amended the language enacted by HB 972 merged with HB 353, which became effective September 15, 2005.
- i Section 577.625 previously had two versions after the 93rd General Assembly, First Regular Session, 2005. During the First Extraordinary Session, HB 2 repealed the language contained in HB 353, effective September 15, 2005. The language from SB 254 was not amended.
- j Section 577.628 previously had two versions after the 93rd General Assembly, First Regular Session, 2005. During the First Extraordinary Session, HB 2 repealed the language contained in HB 353, effective September 15, 2005. The language from SB 254 was not amended.
- k Section 1 from SB 420 & 344 of the 93rd General Assembly, First Regular Session, 2005, was further amended by Section 1 of HB 3 of the First Extraordinary Session and codified as section 578.450, which became effective September 15, 2005.

**TABLE OF SECTIONS AFFECTED
BY
2006 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
8.420	Amended	SB 718		42.014	Amended	SB 1026
9.134	New	HB 983		42.015	Amended	SB 1026
9.136	New	HB 984		42.035	New	HB 1552
9.163	New	HB 1256		42.220	New	HB 978
30.750	Amended	SB 1017		42.222	New	HB 978
30.800	Amended	HB 1739		42.224	New	HB 978
30.810	Amended	HB 1739		42.226	New	HB 978
30.820	Amended	HB 1739		43.060	Amended	HB 1393
30.830	Amended	HB 1739		43.060	Amended	SB 981
30.840	Amended	HB 1739		43.533	New	HB 1698
30.850	Amended	HB 1739		43.650	Amended	HB 1698
32.051	Repealed	SB 678		49.292	New	SB 932
33.080	Amended	SB 583		50.327	Amended	SB 932
37.005	Amended	SB 1122		50.339	Amended	SB 932
37.200	Repealed	SB 870		52.230	Amended	SB 932
37.205	Repealed	SB 870		54.040	Amended	SB 932
37.210	Repealed	SB 870		56.087	New	HB 1858
37.215	Repealed	SB 870		57.290	Amended	SB 870
37.220	Repealed	SB 870		58.217	New	HB 1222
37.225	Repealed	SB 870		59.170	Amended	HB 1707
37.230	Repealed	SB 870		59.331	Amended	SB 932
41.150	Amended	SB 964		59.332	New	SB 932

**TABLE OF SECTIONS AFFECTED
BY
2006 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
67.547	Amended	SB 1207		86.1140	Amended	HB 1138
67.1545	Amended	SB 1056		86.1140	Amended	SB 830
67.1848	New	HB 1149		86.1490	Amended	HB 1138
70.515	New	SB 825		86.1490	Amended	SB 830
70.520	New	SB 825		86.1500	Amended	HB 1138
70.525	New	SB 825		86.1500	Amended	SB 830
70.530	New	SB 825		87.260	Amended	HB 1344
70.535	New	SB 825		89.020	Amended	SB 809
70.540	New	SB 825		99.120	Amended	HB 1944
70.545	New	SB 825		99.460	Amended	HB 1944
71.790	Amended	SB 1094		99.845	Amended	HB 1688
71.796	Amended	SB 1094		100.265	Amended	SB 718
71.798	Amended	SB 1094		100.281	Amended	SB 718
77.580	Repealed	SB 919		100.282	New	SB 718
79.060	Amended	HB 977		100.420	Amended	HB 1944
84.160	Amended	SB 1086		100.710	Amended	SB 645
86.252	Amended	SB 871		105.470	Amended	HB 1900
86.253	Amended	SB 871		105.473	Amended	HB 1900
86.255	Amended	SB 871		105.485	Amended	HB 1900
86.359	New	SB 871		105.957	Amended	HB 1900
86.1110	Amended	HB 1138		105.959	Amended	HB 1900
86.1110	Amended	SB 830		105.963	Amended	HB 1900

**TABLE OF SECTIONS AFFECTED
BY
2006 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
115.002	New	SB 1014		115.449	Amended	SB 1014
115.024	New	SB 1014		115.453	Amended	SB 1014
115.105	Amended	SB 1014		115.456	New	SB 1014
115.124	Amended	SB 1014		115.631	Amended	SB 1014
115.126	Repealed	SB 1014		130.011	Amended	HB 1900
115.159	Amended	SB 1014		130.016	Amended	HB 1900
115.163	Amended	SB 1014		130.032	Amended	HB 1900
115.203	New	SB 1014		130.042	New	HB 1900
115.205	New	SB 1014		130.046	Amended	HB 1900
115.219	New	SB 1014		130.050	Amended	HB 1900
115.223	Repealed	SB 1014		130.054	Amended	HB 1900
115.225	Amended	SB 1014		135.327	Amended	HB 1485
115.237	Amended	SB 1014		135.327	Amended	SB 1229
115.247	Amended	SB 1014		135.333	Amended	HB 1485
115.249	Amended	SB 1014		135.333	Amended	SB 1229
115.342	New	HB 1900		135.550	Amended	SB 614
115.350	New	HB 1900		135.630	New	HB 1485
115.427	Amended	SB 1014		135.1142	New	SB 614
115.430	Amended	SB 1014		137.106	Amended	SB 630
115.431	Amended	SB 1014		137.390	Amended	SB 1016
115.439	Amended	SB 1014		142.031	Amended	HB 1270
115.445	Amended	SB 1014		143.072	Repealed	SB 678

**TABLE OF SECTIONS AFFECTED
BY
2006 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
143.121	Amended	HB 1440		166.420	Amended	SB 641
143.183	Amended	SB 870		167.020	Amended	SB 834
143.471	Amended	SB 892		167.031	Amended	HB 1182
143.1004	Amended	SB 1060		167.231	Amended	HB 1180
143.1005	Amended	SB 1060		167.627	Amended	HB 1732
143.1007	New	HB 1440		167.630	New	HB 1245
148.655	New	SB 892		168.133	Amended	HB 1449
148.657	New	SB 892		171.033	Amended	SB 769
160.730	New	SB 580		173.232	New	SB 980
160.775	New	SB 894		173.239	Amended	SB 701
161.213	New	HB 1511		174.450	Amended	SB 650
161.410	Amended	SB 900		174.453	Amended	SB 650
161.670	New	SB 912		174.500	Amended	SB 650
161.700	New	SB 1189		177.091	Amended	SB 751
162.700	Amended	SB 834		182.105	Amended	SB 936
162.950	Repealed	SB 834		185.200	New	SB 870
162.955	Amended	SB 834		185.205	New	SB 870
162.961	Amended	SB 834		185.210	New	SB 870
163.011	Amended	SB 894		185.215	New	SB 870
163.021	Amended	SB 894		185.220	New	SB 870
163.031	Amended	SB 894		185.225	New	SB 870
165.018	New	SB 769		185.230	New	SB 870

**TABLE OF SECTIONS AFFECTED
BY
2006 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
188.023	New	HB 1698		198.006	Amended	SB 616
190.350	Repealed	HB 1437		198.073	Amended	SB 616
190.353	Amended	HB 1437		198.087	Amended	SB 616
190.355	Amended	HB 1437		198.439	Amended	SB 822
192.081	Amended	HB 1559		208.143	New	HB 1491
192.400	Amended	HB 1437		208.437	Amended	SB 822
192.400	Amended	SB 677		208.480	Amended	SB 822
192.410	Amended	HB 1437		208.631	Amended	SB 1084
192.410	Amended	SB 677		208.784	Amended	SB 1117
192.420	Amended	HB 1437		208.792	Amended	SB 1117
192.420	Amended	SB 677		208.930	Amended	SB 1084
193.065	Amended	HB 1707		210.104	Repealed	SB 872
193.065	Amended	SB 1177		210.106	Amended	SB 872
195.017	Amended	SB 756		210.107	Repealed	SB 872
196.931	Amended	SB 1017		211.034	New	HB 1182
196.949	Amended	SB 1017		211.393	Amended	SB 870
196.951	Amended	SB 1017		217.735	Amended	HB 1698
196.973	Amended	HB 1687		221.105	Amended	SB 870
196.979	Amended	HB 1687		221.515	New	HB 1204
196.981	Amended	HB 1687		221.515	New	SB 785
197.291	Amended	SB 1155		226.009	New	SB 1001
198.005	New	SB 616		227.240	Amended	HB 1149

**TABLE OF SECTIONS AFFECTED
BY
2006 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
227.290	Amended	SB 840		227.624	New	HB 1380
227.299	Amended	SB 840		227.627	New	HB 1380
227.305	New	SB 667		227.630	New	HB 1380
227.308	New	SB 990		227.633	New	HB 1380
227.345	Amended	SB 667		227.636	New	HB 1380
227.359	New	SB 667		227.639	New	HB 1380
227.375	New	SB 667		227.642	New	HB 1380
227.377	New	SB 667		227.645	New	HB 1380
227.379	New	HB 1488		227.648	New	HB 1380
227.379	New	SB 667		227.651	New	HB 1380
227.379	New	SB 1059		227.654	New	HB 1380
227.383	New	SB 990		227.657	New	HB 1380
227.384	New	SB 667		227.660	New	HB 1380
227.386	New	SB 1139		227.663	New	HB 1380
227.600	New	HB 1380		227.666	New	HB 1380
227.603	New	HB 1380		227.669	New	HB 1380
227.606	New	HB 1380		228.040	Amended	SB 932
227.609	New	HB 1380		228.070	Repealed	SB 932
227.612	New	HB 1380		228.190	Amended	SB 932
227.615	New	HB 1380		238.216	Amended	SB 931
227.618	New	HB 1380		238.247	Amended	HB 1944
227.621	New	HB 1380		242.492	New	SB 1002

**TABLE OF SECTIONS AFFECTED
BY
2006 LEGISLATION**

SECTION	ACTION	BILL	SECTION	ACTION	BILL
249.761	New	SB 802	290.145	Amended	SB 567
288.030	Amended	HB 1456	301.142	Amended	HB 1762
288.032	Amended	HB 1456	301.190	Amended	SB 583
288.035	Amended	HB 1456	301.215	Amended	SB 892
288.036	Amended	HB 1456	301.445	Amended	HB 1382
288.038	Amended	HB 1456	301.447	Amended	HB 1382
288.040	Amended	HB 1456	301.451	Amended	HB 1382
288.042	New	HB 1456	301.456	Amended	HB 1382
288.045	Amended	HB 1456	301.457	Amended	HB 1382
288.046	New	HB 1456	301.464	Amended	HB 1382
288.050	Amended	HB 1456	301.465	Amended	HB 1382
288.060	Amended	HB 1456	301.560	Amended	SB 747
288.120	Amended	HB 1456	301.800	Amended	SB 583
288.121	Amended	HB 1456	301.3030	New	HB 1382
288.122	Amended	HB 1456	301.3054	Amended	HB 1382
288.128	Amended	HB 1456	301.3061	New	HB 1382
288.175	Amended	HB 1456	301.3085	Amended	HB 1382
288.190	Amended	HB 1456	301.3090	Amended	HB 1382
288.330	Amended	HB 1456	301.3116	Amended	HB 1382
288.380	Amended	HB 1456	301.3141	New	HB 1382
288.381	Amended	HB 1456	301.4000	Amended	HB 1382
288.500	Amended	HB 1456	302.130	Amended	SB 1001

**TABLE OF SECTIONS AFFECTED
BY
2006 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
302.171	Amended	SB 1001		320.202	Amended	HB 1509
302.178	Amended	SB 1001		320.300	Amended	SB 863
302.302	Amended	SB 872		321.243	Amended	SB 893
302.720	Amended	SB 1001		321.554	Amended	SB 893
304.022	Amended	SB 872		324.245	Amended	SB 756
304.070	Amended	SB 872		324.247	Amended	SB 756
304.351	Amended	SB 872		324.257	Amended	SB 756
304.580	Amended	SB 872		324.262	Amended	SB 756
304.582	New	SB 872		324.265	Amended	SB 756
304.585	New	SB 872		324.270	Amended	SB 756
306.030	Amended	SB 778		324.409	Amended	SB 749
306.185	New	SB 778		327.391	Amended	HB 1494
306.435	Amended	SB 892		327.391	Amended	SB 819
307.178	Amended	SB 872		327.392	New	HB 1494
307.182	New	SB 872		327.392	New	SB 819
307.366	Repealed	SB 583		328.115	Amended	SB 934
307.367	New	SB 583		329.045	Amended	SB 934
311.325	Amended	SB 725		332.052	New	SB 756
311.490	Amended	SB 725		332.071	Amended	SB 756
312.200	Amended	SB 725		332.311	Amended	SB 828
313.820	Amended	SB 561		334.103	Amended	SB 756
320.010	Amended	SB 648		334.104	Amended	HB 1515

**TABLE OF SECTIONS AFFECTED
BY
2006 LEGISLATION**

SECTION	ACTION	BILL	SECTION	ACTION	BILL
334.104	Amended	SB 756	348.015	Amended	HB 1739
334.706	Amended	HB 1759	348.500	New	SB 1017
334.706	Amended	SB 756	348.505	New	SB 1017
334.708	Amended	HB 1759	351.090	Amended	SB 1208
334.708	Amended	SB 756	351.295	Amended	HB 1715
334.715	Amended	HB 1759	351.355	Amended	HB 1715
334.715	Amended	SB 756	351.455	Amended	HB 1715
334.721	Amended	HB 1759	351.488	Amended	HB 1427
334.721	Amended	SB 756	351.488	Amended	SB 845
335.212	Amended	HB 1234	351.609	New	HB 1698
335.212	Amended	SB 980	353.130	Amended	HB 1944
335.233	Amended	HB 1234	361.711	Amended	SB 892
335.233	Amended	SB 980	361.715	Amended	SB 892
337.500	Amended	SB 756	362.078	New	SB 892
337.510	Amended	SB 756	362.275	Amended	SB 892
337.615	Amended	SB 756	362.445	Amended	SB 892
338.550	Amended	SB 822	374.046	Amended	HB 1837
339.010	Amended	HB 1339	374.047	New	HB 1837
339.040	Amended	HB 1339	374.048	New	HB 1837
339.100	Amended	HB 1339	374.049	New	HB 1837
340.222	Amended	SB 756	376.392	New	SB 567
340.234	Amended	SB 756	376.421	Amended	HB 1827

**TABLE OF SECTIONS AFFECTED
BY
2006 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
376.421	Amended	SB 567		388.615	Amended	SB 933
376.429	Amended	SB 567		388.645	Amended	SB 933
376.961	Amended	SB 837		392.245	Amended	SB 1066
379.860	Amended	SB 837		393.310	Amended	SB 558
379.952	Amended	SB 567		393.705	Amended	SB 559
383.010	Amended	HB 1837		404.051	Amended	SB 892
383.016	New	HB 1837		404.550	Amended	SB 892
383.035	Amended	HB 1837		404.714	Amended	SB 892
383.105	Amended	HB 1837		407.1240	Amended	SB 1216
383.106	New	HB 1837		407.1249	Amended	SB 1216
383.107	New	HB 1837		408.555	Amended	SB 892
383.108	New	HB 1837		414.035	New	SB 1020
383.124	New	HB 1837		414.255	New	HB 1270
383.175	Amended	SB 837		430.225	Amended	SB 1057
383.196	New	HB 1837		431.064	Amended	HB 1601
383.197	New	HB 1837		431.064	Amended	SB 765
383.198	New	HB 1837		431.068	Amended	SB 1197
383.199	New	HB 1837		454.530	Amended	SB 618
383.450	New	HB 1837		456.1.103	Amended	SB 892
383.515	New	HB 1837		456.1.105	Amended	SB 892
388.600	Amended	SB 933		456.1.110	Amended	SB 892
388.605	Amended	SB 933		456.1.112	Amended	SB 892

**TABLE OF SECTIONS AFFECTED
BY
2006 LEGISLATION**

SECTION	ACTION	BILL		SECTION	ACTION	BILL
456.2.204	Amended	SB 892		478.340	Repealed	HB 1343
456.3.301	Amended	SB 892		478.343	Repealed	HB 1343
456.3.304	Amended	SB 892		478.347	Repealed	HB 1343
456.4.401	Amended	SB 892		478.350	Repealed	HB 1343
456.4.402	Amended	SB 892		478.353	Repealed	HB 1343
456.5.501	Amended	SB 892		488.5050	Amended	SB 1023
456.5.504	Amended	SB 892		489.042	New	HB 1698
456.5.506	Amended	SB 892		516.090	Amended	SB 1045
456.7.703	Amended	SB 892		523.001	New	HB 1944
456.8.813	Amended	SB 892		523.039	New	HB 1944
456.8.814	Amended	SB 892		523.040	Amended	HB 1944
456.8.816	Amended	SB 892		523.055	Amended	HB 1944
456.4A.411	Amended	SB 892		523.060	Amended	HB 1944
456.4B.411	Amended	SB 892		523.061	New	HB 1944
469.600	New	SB 892		523.200	Amended	HB 1944
473.333	Amended	SB 892		523.205	Amended	HB 1944
473.748	New	SB 932		523.250	New	HB 1944
473.787	Amended	SB 892		523.253	New	HB 1944
475.092	Amended	SB 892		523.256	New	HB 1944
475.130	Amended	SB 892		523.259	New	HB 1944
475.190	Amended	SB 892		523.261	New	HB 1944
478.337	Repealed	HB 1343		523.262	New	HB 1944

**TABLE OF SECTIONS AFFECTED
BY
2006 LEGISLATION**

SECTION	ACTION	BILL	SECTION	ACTION	BILL
523.265	New	HB 1944	559.100	Amended	HB 1698
523.271	New	HB 1944	559.106	Amended	HB 1698
523.274	New	HB 1944	565.024	Amended	SB 872
523.277	New	HB 1944	565.060	Amended	SB 872
523.282	New	HB 1944	566.010	Amended	HB 1698
523.283	New	HB 1944	566.020	Amended	HB 1698
536.010	Amended	SB 1146	566.030	Amended	HB 1698
536.100	Amended	SB 1146	566.032	Amended	HB 1698
537.347	Amended	HB 1617	566.060	Amended	HB 1698
537.620	Amended	HB 1703	566.062	Amended	HB 1698
537.640	Amended	HB 1703	566.067	Amended	HB 1698
544.671	Amended	HB 1698	566.083	Amended	HB 1698
547.170	Amended	HB 1698	566.086	Amended	HB 1698
550.190	Amended	SB 870	566.090	Amended	HB 1698
550.200	Amended	SB 870	566.145	Amended	HB 1698
550.210	Amended	SB 870	566.147	Amended	HB 1698
550.220	Amended	SB 870	566.149	New	HB 1698
550.230	Amended	SB 870	566.151	Amended	HB 1698
550.260	Amended	SB 870	566.213	New	HB 1698
556.036	Amended	HB 1857	566.265	New	HB 1698
556.061	Amended	HB 1698	567.085	New	HB 1698
558.018	Amended	HB 1698	567.087	New	HB 1698

TABLE OF SECTIONS AFFECTED BY 2006 LEGISLATION

SECTION	ACTION	BILL	SECTION	ACTION	BILL
567.089	New	HB 1698	621.110	Amended	SB 756
568.020	Amended	HB 1698	632.484	Amended	HB 1698
573.010	Amended	HB 1698	632.489	Amended	HB 1698
575.159	New	HB 1698	632.495	Amended	HB 1698
575.195	Amended	HB 1698	632.498	Amended	HB 1698
577.020	Amended	SB 872	632.501	Amended	HB 1698
577.021	Amended	SB 872	632.504	Amended	HB 1698
578.501	New	HB 1026	632.505	New	HB 1698
578.501	New	SB 578	632.507	Amended	HB 1698
578.502	New	HB 1026	633.032	Amended	SB 974
589.400	Amended	HB 1698	640.100	Amended	HB 1149
589.402	Amended	HB 1698	643.300	Amended	SB 583
589.403	Amended	HB 1698	643.303	New	SB 583
589.405	Amended	HB 1698	643.305	Amended	SB 583
589.407	Amended	HB 1698	643.310	Amended	SB 583
589.414	Amended	HB 1698	643.315	Amended	SB 583
589.425	Amended	HB 1698	643.320	Amended	SB 583
600.042	Amended	HB 1698	643.330	Amended	SB 583
610.105	Amended	HB 1053	643.335	Amended	SB 583
620.515	New	HB 1787	643.337	New	SB 583
620.1500	New	SB 1008	643.350	Amended	SB 583
621.100	Amended	SB 756	643.353	New	SB 583

**TABLE OF SECTIONS AFFECTED
BY
2006 LEGISLATION**

SECTION	ACTION	BILL	SECTION	ACTION	BILL
644.016	Amended	HB 1149	1	New	SB 616
644.036	Amended	HB 1149	1	New	SB 769
644.051	Amended	HB 1149	1	New	SB 881
644.054	Amended	HB 1149	1	New	SB 894
644.054	Amended	SB 1165	1	New	SB 1003
644.587	New	HB 1149	2	New	HB 1944
644.588	New	HB 1149	2	New	SB 894
644.589	New	HB 1149	2	New	SB 1003
650.050	Amended	SB 1023	3	New	HB 1944
650.055	Amended	SB 1023	3	New	SB 894
650.056	Amended	SB 1023	3	New	SB 1003
650.057	Amended	SB 1023	4	New	SB 1003
650.058	New	SB 1023	5	New	SB 1003
650.100	Amended	SB 1023	6	New	SB 1003
650.120	New	HB 1698	7	New	SB 1003
700.385	Amended	SB 892	8	New	SB 1003
701.450	Amended	HB 1149	9	New	SB 1003
1	New	HB 1698	10	New	SB 1003
1	New	HB 1900	11	New	SB 1003
1	New	HB 1944	12	New	SB 1003
1	New	SB 612			

**LAWS PASSED
DURING THE
NINETY-THIRD
GENERAL ASSEMBLY,
FIRST EXTRAORDINARY SESSION**

Tuesday, September 6, 2005
through
Thursday, September 15, 2005

HB 2 [HCS HB 2]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Makes technical corrections to various criminal statutes.

AN ACT to repeal section 210.117 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for senate substitute for house committee substitute no. 2 for house bill no. 568 and approved by the governor on June 24, 2005, and section 210.117 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for house committee substitute for senate committee substitute no. 2 for senate bill no. 155 and approved by the governor on July 14, 2005, and section 210.117 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for house committee substitute for senate committee substitute for senate bills nos. 420 & 344 and approved by the governor on July 13, 2005, and section 211.038 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for senate substitute for house committee substitute no. 2 for house bill no. 568 and approved by the governor on June 24, 2005, merged with section 211.038 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for house committee substitute for senate committee substitute no. 2 for senate bill no. 155 and approved by the governor on July 14, 2005, merged with section 211.038 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for house committee substitute for senate committee substitute for senate bills nos. 420 & 344 and approved by the governor on July 13, 2005, and section 211.181 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for house committee substitute for senate committee substitute for senate bills nos. 420 & 344 and approved by the governor on July 13, 2005, and section 311.310 as enacted by the first regular session of the ninety-third general assembly in senate substitute no. 2 for senate committee substitute for house committee substitute for house bill no. 972 and approved by the governor on July 13, 2005, merged with section 311.310 as enacted by the first regular session of the ninety-third general assembly in house committee substitute for senate substitute for senate committee substitute for senate bills nos. 37, 322, 78, 351 & 424 and approved by the governor on July 13, 2005, and section 311.310 as enacted by the first regular session of the ninety-third general assembly in house committee substitute for senate substitute for senate bill no. 402 and approved by the governor on July 13, 2005, and section 565.024 as enacted by the first regular session of the ninety-third general assembly in senate substitute no. 2 for senate committee substitute for house committee substitute for house bill no. 972 and approved by the governor on July 13, 2005, merged with section 565.024 as enacted by the first regular session of the ninety-third general assembly in house committee substitute for senate substitute for senate committee substitute for senate bills nos. 37, 322, 78, 351 & 424 and approved by the governor on July 13, 2005, and section 568.050 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 353 and approved by the governor on July 13, 2005, and section 568.050 as enacted by the first regular session of the ninety-third general assembly in senate substitute no. 2 for senate committee substitute for house committee substitute for house bill no. 972 and approved by the governor on July 13, 2005, merged with section 568.050 as enacted by the first regular session of the ninety-third general assembly in house committee substitute for senate substitute for senate committee substitute for senate bills nos. 37, 322, 78, 351 & 424 and approved by the governor on July 13, 2005,

and section 577.023 as enacted by the first regular session of the ninety-third general assembly in senate substitute no. 2 for senate committee substitute for house committee substitute for house bill no. 972 and approved by the governor on July 13, 2005, merged with section 577.023 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 353 and approved by the governor on July 13, 2005, and section 577.023 as enacted by the first regular session of the ninety-third general assembly in house committee substitute for senate substitute for senate committee substitute for senate bills nos. 37, 322, 78, 351 & 424 and approved by the governor on July 13, 2005, merged with section 577.023 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 353 and approved by the governor on July 13, 2005, and section 577.625 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 353 and approved by the governor on July 13, 2005, and section 577.628 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 353 and approved by the governor on July 13, 2005, and to enact in lieu thereof seven new sections relating to crime, with penalty provisions and an emergency clause.

SECTION

- A. Enacting clause.
 - 210.117. Child not reunited with parents or placed in a home, when.
 - 210.117. Child not reunited with parents or placed in a home, when.
 - 210.117. Child not reunited with parents or placed in a home, when.
 - 211.038. Children not to be reunited with parents or placed in a home, when — discretion to return, when.
 - 211.181. Order for disposition or treatment of child — suspension of order and probation granted, when — community organizations, immunity from liability, when — length of commitment may be set forth — assessments, deposits, use.
 - 311.310. Sale to minor — certain other persons, misdemeanor — exceptions — permitting drinking or possession by a minor, penalty, exception — defenses.
 - 311.310. Sale to minor — certain other persons, misdemeanor — exceptions — permitting drinking or possession by a minor, penalty, exception — defenses.
 - 565.024. Involuntary manslaughter, penalty.
 - 568.050. Endangering the welfare of a child in the second degree.
 - 568.050. Endangering the welfare of a child in the second degree.
 - 577.023. Aggravated, chronic, persistent and prior offenders — enhanced penalties — imprisonment requirements, exceptions — procedures — definitions.
 - 577.023. Aggravated, chronic, persistent and prior offenders — enhanced penalties — imprisonment requirements, exceptions — procedures — definitions.
 - 577.625. Distribution of prescription medication on public or private school property — exceptions — violations, penalty.
 - 577.628. Possession of prescription medication on public or private school property — exceptions — violations, penalty.
- B. Emergency clause.
- C. Severability clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 210.117 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for senate substitute for house committee substitute no. 2 for house bill no. 568 and approved by the governor on June 24, 2005, and section 210.117 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for house committee substitute for senate committee substitute no. 2 for senate bill no. 155 and approved by the governor on July 14, 2005, and section 210.117 as enacted by the first regular session of the ninety-third general assembly in

[illegible]

substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 353 and approved by the governor on July 13, 2005, are repealed and seven new sections enacted in lieu thereof, to be known as sections 210.117, 211.038, 211.181, 311.310, 565.024, 568.050, and 577.023, to read as follows:

[210.117. CHILD NOT REUNITED WITH PARENTS OR PLACED IN A HOME, WHEN. — 1. A child taken into the custody of the state shall not be reunited with a parent or placed in a home in which the parent or any person residing in the home has been found guilty of, or pled guilty to, any of the following offenses when a child was the victim:

- (1) A felony violation of section 566.030, 566.032, 566.040, 566.060, 566.062, 566.064, 566.067, 566.068, 566.070, 566.083, 566.090, 566.100, 566.111, 566.151, 566.203, 566.206, 566.209, 566.212, or 566.215, RSMo;
- (2) A violation of section 568.020, RSMo;
- (3) A violation of subdivision (2) of subsection 1 of section 568.060, RSMo;
- (4) A violation of section 568.065, RSMo;
- (5) A violation of section 568.080, RSMo;
- (6) A violation of section 568.090, RSMo; or
- (7) A violation of section 568.175, RSMo.

2. For all other violations of offenses in chapters 566 and 568, RSMo, not specifically listed in subsection 1 of this section or for a violation of an offense committed in another state when a child is the victim that would be a violation of chapter 566 or 568, RSMo, if committed in Missouri, the division may exercise its discretion regarding the placement of a child taken into the custody of the state in which a parent or any person residing in the home has been found guilty of, or pled guilty to, any such offense.]

[210.117. CHILD NOT REUNITED WITH PARENTS OR PLACED IN A HOME, WHEN. — 1. No child taken into the custody of the state shall be reunited with a parent or placed in a home in which the parent or any person residing in the home has been found guilty of, or pled guilty to, a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, when a child was the victim, or a violation of section 568.020, 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, or 568.175, RSMo, except for subdivision (1) of subsection 1 of section 568.060, RSMo, when a child was the victim, or an offense committed in another state when a child is the victim, that would be a felony violation of chapter 566, RSMo, except for section 566.034, RSMo, or a violation of section 568.020, 568.045, 568.060, 568.065, 568.070, 568.080, 568.090, or 568.175, RSMo, except for subdivision (1) of subsection 1 of section 568.060, RSMo, if committed in Missouri; provided however, nothing in this section shall preclude the division from exercising its discretion regarding the placement of a child in a home in which the parent or any person residing in the home has been found guilty of or pled guilty or nolo contendere to any offense excepted or excluded in this section.

2. If a court of competent jurisdiction determines, or the division determines, based on a substantiated report of child abuse that is upheld by the child abuse and neglect review board, that a minor has abused another child, such minor shall be prohibited from returning to or residing in any residence located within one thousand feet of the residence of the abused child, or any child care facility or school that the abused child attends, until the abused child reaches eighteen years of age. The prohibitions of this subsection shall not apply where the alleged abuse occurred between siblings.]

210.117. CHILD NOT REUNITED WITH PARENTS OR PLACED IN A HOME, WHEN. — 1. A child taken into the custody of the state shall not be reunited with a parent or placed in a home in which the parent or any person residing in the home has been found guilty of, or pled guilty to, any of the following offenses when a child was the victim:

(1) A felony violation of section 566.030, 566.032, 566.040, 566.060, 566.062, 566.064, 566.067, 566.068, 566.070, 566.083, 566.090, 566.100, 566.111, 566.151, 566.203, 566.206, 566.209, 566.212, or 566.215, RSMo;

(2) A violation of section 568.020, RSMo;

(3) A violation of subdivision (2) of subsection 1 of section 568.060, RSMo;

(4) A violation of section 568.065, RSMo;

(5) A violation of section 568.080, RSMo;

(6) A violation of section 568.090, RSMo; or

(7) A violation of section 568.175, RSMo.

2. For all other violations of offenses in chapters 566 and 568, RSMo, not specifically listed in subsection 1 of this section or for a violation of an offense committed in another state when a child is the victim that would be a violation of chapter 566 or 568, RSMo, if committed in Missouri, the division may exercise its discretion regarding the placement of a child taken into the custody of the state in which a parent or any person residing in the home has been found guilty of, or pled guilty to, any such offense.

3. In any case where the children's division determines[,] based on a substantiated report of child abuse, that a child has abused another child, the abusing child shall be prohibited from returning to or residing in any residence, facility, or school within one thousand feet of the residence of the abused child **or any child care facility or school that the abused child attends**, unless and until a court of competent jurisdiction determines that the alleged abuse did not occur or the abused child reaches the age of eighteen, whichever earlier occurs. The provisions of this subsection shall not apply when the abusing child and the abused child are **siblings or children living in the same home**.

211.038. CHILDREN NOT TO BE REUNITED WITH PARENTS OR PLACED IN A HOME, WHEN — DISCRETION TO RETURN, WHEN. — 1. A child under the jurisdiction of the juvenile court shall not be reunited with a parent or placed in a home in which the parent or any person residing in the home has been found guilty of, or pled guilty to, any of the following offenses when a child was the victim:

(1) A felony violation of section 566.030, 566.032, 566.040, 566.060, 566.062, 566.064, 566.067, 566.068, 566.070, 566.083, 566.090, 566.100, 566.111, 566.151, 566.203, 566.206, 566.209, 566.212, or 566.215, RSMo;

(2) A violation of section 568.020, RSMo;

(3) A violation of subdivision (2) of subsection 1 of section 568.060, RSMo;

(4) A violation of section 568.065, RSMo;

(5) A violation of section 568.080, RSMo;

(6) A violation of section 568.090, RSMo; or

(7) A violation of section 568.175, RSMo.

2. For all other violations of offenses in chapters 566 and 568, RSMo, not specifically listed in subsection 1 of this section or for a violation of an offense committed in another state when a child is the victim that would be a violation of chapter 566 or 568, RSMo, if committed in Missouri, the juvenile court may exercise its discretion regarding the placement of a child under the jurisdiction of the juvenile court in a home in which a parent or any person residing in the home has been found guilty of, or pled guilty to, any such offense.

3. If the juvenile court determines that a [minor] **child** has abused another child, such [minor] **abusing child** shall be prohibited from returning to or residing in any residence located within one thousand feet of the residence of the abused child, or any child care facility or school that the abused child attends, until the abused child reaches eighteen years of age. The prohibitions of this subsection shall not apply where the alleged abuse occurred between **siblings or children living in the same home**.

211.181. ORDER FOR DISPOSITION OR TREATMENT OF CHILD — SUSPENSION OF ORDER AND PROBATION GRANTED, WHEN — COMMUNITY ORGANIZATIONS, IMMUNITY FROM LIABILITY, WHEN — LENGTH OF COMMITMENT MAY BE SET FORTH — ASSESSMENTS, DEPOSITS, USE. — 1. When a child or person seventeen years of age is found by the court to come within the applicable provisions of subdivision (1) of subsection 1 of section 211.031, the court shall so decree and make a finding of fact upon which it exercises its jurisdiction over the child or person seventeen years of age, and the court may, by order duly entered, proceed as follows:

(1) Place the child or person seventeen years of age under supervision in his own home or in the custody of a relative or other suitable person after the court or a public agency or institution designated by the court conducts an investigation of the home, relative or person and finds such home, relative or person to be suitable and upon such conditions as the court may require;

(2) Commit the child or person seventeen years of age to the custody of:

(a) A public agency or institution authorized by law to care for children or to place them in family homes; except that, such child or person seventeen years of age may not be committed to the department of social services, division of youth services;

(b) Any other institution or agency which is authorized or licensed by law to care for children or to place them in family homes;

(c) An association, school or institution willing to receive the child or person seventeen years of age in another state if the approval of the agency in that state which administers the laws relating to importation of children into the state has been secured; or

(d) The juvenile officer;

(3) Place the child or person seventeen years of age in a family home;

(4) Cause the child or person seventeen years of age to be examined and treated by a physician, psychiatrist or psychologist and when the health or condition of the child or person seventeen years of age requires it, cause the child or person seventeen years of age to be placed in a public or private hospital, clinic or institution for treatment and care; except that, nothing contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment of a child or person seventeen years of age whose parents or guardian in good faith are providing other remedial treatment recognized or permitted under the laws of this state;

(5) The court may order, pursuant to subsection 2 of section 211.081, that the child receive the necessary services in the least restrictive appropriate environment including home and community-based services, treatment and support, based on a coordinated, individualized treatment plan. The individualized treatment plan shall be approved by the court and developed by the applicable state agencies responsible for providing or paying for any and all appropriate and necessary services, subject to appropriation, and shall include which agencies are going to pay for and provide such services. Such plan must be submitted to the court within thirty days and the child's family shall actively participate in designing the service plan for the child or person seventeen years of age;

(6) The department of social services, in conjunction with the department of mental health, shall apply to the United States Department of Health and Human Services for such federal waivers as required to provide services for such children, including the acquisition of community-based services waivers.

2. When a child is found by the court to come within the provisions of subdivision (2) of subsection 1 of section 211.031, the court shall so decree and upon making a finding of fact upon which it exercises its jurisdiction over the child, the court may, by order duly entered, proceed as follows:

(1) Place the child under supervision in his own home or in custody of a relative or other suitable person after the court or a public agency or institution designated by the court conducts an investigation of the home, relative or person and finds such home, relative or person to be suitable and upon such conditions as the court may require;

(2) Commit the child to the custody of:

(a) A public agency or institution authorized by law to care for children or place them in family homes; except that, a child may be committed to the department of social services, division of youth services, only if he is presently under the court's supervision after an adjudication under the provisions of subdivision (2) or (3) of subsection 1 of section 211.031;

(b) Any other institution or agency which is authorized or licensed by law to care for children or to place them in family homes;

(c) An association, school or institution willing to receive it in another state if the approval of the agency in that state which administers the laws relating to importation of children into the state has been secured; or

(d) The juvenile officer;

(3) Place the child in a family home;

(4) Cause the child to be examined and treated by a physician, psychiatrist or psychologist and when the health or condition of the child requires it, cause the child to be placed in a public or private hospital, clinic or institution for treatment and care; except that, nothing contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment of a child whose parents or guardian in good faith are providing other remedial treatment recognized or permitted under the laws of this state;

(5) Assess an amount of up to ten dollars to be paid by the child to the clerk of the court.

Execution of any order entered by the court pursuant to this subsection, including a commitment to any state agency, may be suspended and the child placed on probation subject to such conditions as the court deems reasonable. After a hearing, probation may be revoked and the suspended order executed.

3. When a child is found by the court to come within the provisions of subdivision (3) of subsection 1 of section 211.031, the court shall so decree and make a finding of fact upon which it exercises its jurisdiction over the child, and the court may, by order duly entered, proceed as follows:

(1) Place the child under supervision in his or her own home or in custody of a relative or other suitable person after the court or a public agency or institution designated by the court conducts an investigation of the home, relative or person and finds such home, relative or person to be suitable and upon such conditions as the court may require; provided that, no child who has been adjudicated a delinquent by a juvenile court for committing or attempting to commit a sex-related offense which if committed by an adult would be considered a felony offense pursuant to chapter 566, RSMo, including but not limited to rape, forcible sodomy, child molestation, and sexual abuse, and in which the victim was a child, shall be placed in any residence within one thousand feet of the residence of the [victim] **abused child** of that offense until the [victim] **abused child** reaches the age of eighteen, and provided further that the provisions of this subdivision regarding placement within one thousand feet of the [victim] **abused child** shall not apply when the abusing child and the [victim] **abused child** are **siblings or** children living in the same home;

(2) Commit the child to the custody of:

(a) A public agency or institution authorized by law to care for children or to place them in family homes;

(b) Any other institution or agency which is authorized or licensed by law to care for children or to place them in family homes;

(c) An association, school or institution willing to receive it in another state if the approval of the agency in that state which administers the laws relating to importation of children into the state has been secured; or

(d) The juvenile officer;

(3) Beginning January 1, 1996, the court may make further directions as to placement with the division of youth services concerning the child's length of stay. The length of stay order may set forth a minimum review date;

- (4) Place the child in a family home;
- (5) Cause the child to be examined and treated by a physician, psychiatrist or psychologist and when the health or condition of the child requires it, cause the child to be placed in a public or private hospital, clinic or institution for treatment and care; except that, nothing contained herein authorizes any form of compulsory medical, surgical, or psychiatric treatment of a child whose parents or guardian in good faith are providing other remedial treatment recognized or permitted under the laws of this state;
- (6) Suspend or revoke a state or local license or authority of a child to operate a motor vehicle;
- (7) Order the child to make restitution or reparation for the damage or loss caused by his offense. In determining the amount or extent of the damage, the court may order the juvenile officer to prepare a report and may receive other evidence necessary for such determination. The child and his attorney shall have access to any reports which may be prepared, and shall have the right to present evidence at any hearing held to ascertain the amount of damages. Any restitution or reparation ordered shall be reasonable in view of the child's ability to make payment or to perform the reparation. The court may require the clerk of the circuit court to act as receiving and disbursing agent for any payment ordered;
- (8) Order the child to a term of community service under the supervision of the court or of an organization selected by the court. Every person, organization, and agency, and each employee thereof, charged with the supervision of a child under this subdivision, or who benefits from any services performed as a result of an order issued under this subdivision, shall be immune from any suit by the child ordered to perform services under this subdivision, or any person deriving a cause of action from such child, if such cause of action arises from the supervision of the child's performance of services under this subdivision and if such cause of action does not arise from an intentional tort. A child ordered to perform services under this subdivision shall not be deemed an employee within the meaning of the provisions of chapter 287, RSMo, nor shall the services of such child be deemed employment within the meaning of the provisions of chapter 288, RSMo. Execution of any order entered by the court, including a commitment to any state agency, may be suspended and the child placed on probation subject to such conditions as the court deems reasonable. After a hearing, probation may be revoked and the suspended order executed;
- (9) When a child has been adjudicated to have violated a municipal ordinance or to have committed an act that would be a misdemeanor if committed by an adult, assess an amount of up to twenty-five dollars to be paid by the child to the clerk of the court; when a child has been adjudicated to have committed an act that would be a felony if committed by an adult, assess an amount of up to fifty dollars to be paid by the child to the clerk of the court.

4. Beginning January 1, 1996, the court may set forth in the order of commitment the minimum period during which the child shall remain in the custody of the division of youth services. No court order shall require a child to remain in the custody of the division of youth services for a period which exceeds the child's eighteenth birth date except upon petition filed by the division of youth services pursuant to subsection 1 of section 219.021, RSMo. In any order of commitment of a child to the custody of the division of youth services, the division shall determine the appropriate program or placement pursuant to subsection 3 of section 219.021, RSMo. Beginning January 1, 1996, the department shall not discharge a child from the custody of the division of youth services before the child completes the length of stay determined by the court in the commitment order unless the committing court orders otherwise. The director of the division of youth services may at any time petition the court for a review of a child's length of stay commitment order, and the court may, upon a showing of good cause, order the early discharge of the child from the custody of the division of youth services. The division may discharge the child from the division of youth services without a further court order after the child completes the length of stay determined by the court or may retain the child for any period after the completion of the length of stay in accordance with the law.

5. When an assessment has been imposed under the provisions of subsection 2 or 3 of this section, the assessment shall be paid to the clerk of the court in the circuit where the assessment is imposed by court order, to be deposited in a fund established for the sole purpose of payment of judgments entered against children in accordance with section 211.185.

[311.310. SALE TO MINOR — CERTAIN OTHER PERSONS, MISDEMEANOR — EXCEPTIONS — PERMITTING DRINKING OR POSSESSION BY A MINOR, PENALTY, EXCEPTION — DEFENSES.

— 1. Any licensee under this chapter, or his employee, who shall sell, vend, give away or otherwise supply any intoxicating liquor in any quantity whatsoever to any person under the age of twenty-one years, or to any person intoxicated or appearing to be in a state of intoxication, or to a habitual drunkard, and any person whomsoever except his parent or guardian who shall procure for, sell, give away or otherwise supply intoxicating liquor to any person under the age of twenty-one years, or to any intoxicated person or any person appearing to be in a state of intoxication, or to a habitual drunkard, shall be deemed guilty of a misdemeanor, except that this section shall not apply to the supplying of intoxicating liquor to a person under the age of twenty-one years for medical purposes only, or to the administering of such intoxicating liquor to any person by a duly licensed physician. No person shall be denied a license or renewal of a license issued under this chapter solely due to a conviction for unlawful sale or supply to a minor when serving in the capacity as an employee of a licensed establishment.

2. Any owner, occupant, or other person or legal entity with a lawful right to the use and enjoyment of any property is prohibited from knowingly allowing a person under the age of twenty-one to drink or possess intoxicating liquor or knowingly failing to stop a person under the age of twenty-one from drinking or possessing intoxicating liquor on such property, unless such person allowing the person under the age of twenty-one to drink or possess intoxicating liquor is his or her parent or guardian. A person who violates the provisions of this subsection is guilty of a class A misdemeanor.]

311.310. SALE TO MINOR — CERTAIN OTHER PERSONS, MISDEMEANOR — EXCEPTIONS — PERMITTING DRINKING OR POSSESSION BY A MINOR, PENALTY, EXCEPTION — DEFENSES.

— 1. Any licensee under this chapter, or his employee, who shall sell, vend, give away or otherwise supply any intoxicating liquor in any quantity whatsoever to any person under the age of twenty-one years, or to any person intoxicated or appearing to be in a state of intoxication, or to a habitual drunkard, and any person whomsoever except his parent or guardian who shall procure for, sell, give away or otherwise supply intoxicating liquor to any person under the age of twenty-one years, or to any intoxicated person or any person appearing to be in a state of intoxication, or to a habitual drunkard, shall be deemed guilty of a misdemeanor, except that this section shall not apply to the supplying of intoxicating liquor to a person under the age of twenty-one years for medical purposes only, or to the administering of such intoxicating liquor to any person by a duly licensed physician. No person shall be denied a license or renewal of a license issued under this chapter solely due to a conviction for unlawful sale or supply to a minor when serving in the capacity as an employee of a licensed establishment.

2. [Any owner, occupant, or other person or legal entity with a lawful right to the use and enjoyment of any property, except for a parent or guardian, who knowingly allows any person under the age of twenty-one years to consume intoxicating liquor on such property, or knowingly fails to stop any person under the age of twenty-one years from consuming intoxicating liquor on such property shall be deemed guilty of a class B misdemeanor.] **Any owner, occupant, or other person or legal entity with a lawful right to the exclusive use and enjoyment of any property who knowingly allows a person under the age of twenty-one to drink or possess intoxicating liquor or knowingly fails to stop a person under the age of twenty-one from drinking or possessing intoxicating liquor on such property, unless such person allowing the person under the age of twenty-one to drink or possess intoxicating liquor is his or her**

parent or guardian, is guilty of a class B misdemeanor. Any second or subsequent violation of this subsection is a class A misdemeanor.

3. It shall be a defense to prosecution under this section if:

(1) The defendant is a licensed retailer, club, drinking establishment, or caterer or holds a temporary permit, or an employee thereof;

(2) The defendant sold the intoxicating liquor to the minor with reasonable cause to believe that the minor was twenty-one or more years of age; and

(3) To purchase the intoxicating liquor, the person exhibited to the defendant a driver's license, Missouri nondriver's identification card, or other official or apparently official document, containing a photograph of the minor and purporting to establish that such minor was twenty-one years of age and of the legal age for consumption of intoxicating liquor.

565.024. INVOLUNTARY MANSLAUGHTER, PENALTY. — 1. A person commits the crime of involuntary manslaughter in the first degree if he **or she**:

(1) Recklessly causes the death of another person; or

(2) While in an intoxicated condition operates a motor vehicle in this state and, when so operating, acts with criminal negligence to cause the death of any person; **or**

(3) While in an intoxicated condition operates a motor vehicle in this state, and, when so operating, acts with criminal negligence to:

(a) Cause the death of any person not a passenger in the vehicle operated by the defendant, including the death of an individual that results from the defendant's vehicle leaving a highway, as defined by section 301.010, RSMo, or the highway's right-of-way; or

(b) Cause the death of two or more persons; or

(c) Cause the death of any person while he or she has a blood alcohol content of at least eighteen- hundredths of one percent by weight of alcohol in such person's blood.

2. [Except as provided in subsections 3 and 4 of this section,] Involuntary manslaughter in the first degree **under subdivision (1) or (2) of subsection 1 of this section** is a class C felony.

3. A person commits the crime of involuntary manslaughter in the first degree if he or she while in an intoxicated condition operates a motor vehicle in this state, and, when so operating, acts with criminal negligence to:

(1) Cause the death of any person not a passenger in the vehicle operated by the defendant, including the death of an individual that results from the defendant's vehicle leaving a highway, as defined by section 301.010, RSMo, or the highway's right-of-way; or

(2) Cause the death of two or more persons; or

(3) Cause the death of any person while he or she has a blood alcohol content of at least eighteen- hundredths by weight of alcohol in such person's blood.

4.] Involuntary manslaughter in the first degree under subdivision [(1), (2), or] (3) of subsection [3] **1** of this section is a class B felony. A second or subsequent violation of subdivision (3) of subsection [3] **1** of this section is a class A felony. For any violation of **subdivision (3) of subsection [3] 1** of this section, the minimum prison term which the defendant must serve shall be eighty-five percent of his or her sentence.

[5.] **3.** A person commits the crime of involuntary manslaughter in the second degree if he acts with criminal negligence to cause the death of any person.

[6.] **4.** Involuntary manslaughter in the second degree is a class D felony.

568.050. ENDANGERING THE WELFARE OF A CHILD IN THE SECOND DEGREE. — 1. A person commits the crime of endangering the welfare of a child in the second degree if:

(1) He or she with criminal negligence acts in a manner that creates a substantial risk to the life, body or health of a child less than seventeen years old; or

(2) He or she knowingly encourages, aids or causes a child less than seventeen years old to engage in any conduct which causes or tends to cause the child to come within the provisions

of paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section 211.031, RSMo; or

(3) Being a parent, guardian or other person legally charged with the care or custody of a child less than seventeen years old, he or she recklessly fails or refuses to exercise reasonable diligence in the care or control of such child to prevent him from coming within the provisions of paragraph (c) of subdivision (1) of subsection 1 or paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section 211.031, RSMo; or

(4) He or she knowingly encourages, aids or causes a child less than seventeen years of age to enter into any room, building or other structure which is a public nuisance as defined in section 195.130, RSMo; or

(5) He or she operates a vehicle in violation of **subdivision (2) or (3) of subsection [2] 1** of section 565.024 [or], **subdivision (4) of subsection 1 of section 565.060**, section 577.010, or **section 577.012**, RSMo, while a child less than seventeen years old is present in the vehicle.

2. Nothing in this section shall be construed to mean the welfare of a child is endangered for the sole reason that he or she is being provided nonmedical remedial treatment recognized and permitted under the laws of this state.

3. Endangering the welfare of a child in the second degree is a class A misdemeanor unless the offense is committed as part of a ritual or ceremony, in which case the crime is a class D felony.

[568.050. ENDANGERING THE WELFARE OF A CHILD IN THE SECOND DEGREE. — 1. A person commits the crime of endangering the welfare of a child in the second degree if:

(1) He or she with criminal negligence acts in a manner that creates a substantial risk to the life, body or health of a child less than seventeen years old; or

(2) He or she knowingly encourages, aids or causes a child less than seventeen years old to engage in any conduct which causes or tends to cause the child to come within the provisions of paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section 211.031, RSMo; or

(3) Being a parent, guardian or other person legally charged with the care or custody of a child less than seventeen years old, he or she recklessly fails or refuses to exercise reasonable diligence in the care or control of such child to prevent him from coming within the provisions of paragraph (c) of subdivision (1) of subsection 1 or paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section 211.031, RSMo; or

(4) He or she knowingly encourages, aids or causes a child less than seventeen years of age to enter into any room, building or other structure which is a public nuisance as defined in section 195.130, RSMo; or

(5) The person operates a vehicle in violation of section 565.024, RSMo, 565.060, RSMo, 577.010, RSMo, or 577.012, RSMo, while a child less than seventeen years of age is present in the vehicle.

2. Nothing in this section shall be construed to mean the welfare of a child is endangered for the sole reason that he or she is being provided nonmedical remedial treatment recognized and permitted under the laws of this state.

3. Endangering the welfare of a child in the second degree is a class A misdemeanor unless the offense is committed as part of a ritual or ceremony, in which case the crime is a class D felony.]

577.023. AGGRAVATED, CHRONIC, PERSISTENT AND PRIOR OFFENDERS — ENHANCED PENALTIES — IMPRISONMENT REQUIREMENTS, EXCEPTIONS — PROCEDURES — DEFINITIONS. — 1. For purposes of this section, unless the context clearly indicates otherwise:

(1) An "aggravated offender" is a person who:

(a) Has pleaded guilty to or has been found guilty of three or more intoxication-related traffic offenses [or a person who]; or

(b) Has pleaded **guilty** to or has been found guilty of **one or more intoxication-related traffic offense and, in addition, any of the following:** involuntary manslaughter under subdivision (2) **or** (3) of subsection 1 [or subsections 3 and 4] of section 565.024, RSMo[.]; **murder in the second degree under section 565.021, RSMo, where the underlying felony is an intoxication-related traffic offense;** **or** assault in the second degree under subdivision (4) of subsection 1 of section 565.060, RSMo[.]; **or** assault of a law enforcement officer in the second degree under subdivision [(3)] (4) of subsection 1 of section 565.082, RSMo[, and in addition, one other intoxicated-related traffic offense];

(2) A "chronic offender" is:

(a) A person who has pleaded guilty to or has been found guilty of four or more intoxication-related traffic offenses; **or**

(b) A person who has pleaded guilty to or **has** been found guilty of, on two or more separate occasions, **any combination of the following:** involuntary manslaughter under subdivision (2) **or** (3) of subsection 1 [or subsections 3 and 4] of section 565.024, RSMo[.]; **murder in the second degree under section 565.021, RSMo, where the underlying felony is an intoxication-related traffic offense;** assault in the second degree under subdivision (4) of subsection 1 of section 565.060, RSMo[.]; **or** assault of a law enforcement officer in the second degree under subdivision [(3)] (4) of subsection 1 of section 565.082, RSMo; **or**

(c) A person who has pleaded guilty to or **has** been found guilty of **two or more intoxication-related traffic offenses and, in addition, any of the following:** involuntary manslaughter under subdivision (2) **or** (3) of subsection 1 [or subsections 3 and 4] of section 565.024, RSMo[.]; **murder in the second degree under section 565.021, RSMo, where the underlying felony is an intoxication-related traffic offense;** assault in the second degree under subdivision (4) of subsection 1 of section 565.060, RSMo[.]; **or** assault of a law enforcement officer in the second degree under subdivision [(3)] (4) of subsection 1 of section 565.082, RSMo[, and in addition, two or more intoxication-related traffic offenses];

(3) An "intoxication-related traffic offense" is driving while intoxicated, driving with excessive blood alcohol content, involuntary manslaughter pursuant to subdivision (2) **or** (3) of subsection 1 [or subsections 3 and 4] of section 565.024, RSMo[.]; **murder in the second degree under section 565.021, RSMo, where the underlying felony is an intoxication-related traffic offense;** assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second degree pursuant to subdivision [(3)] (4) of subsection 1 of section 565.082, RSMo, or driving under the influence of alcohol or drugs in violation of state law or a county or municipal ordinance, where the defendant was represented by or waived the right to an attorney in writing;

(4) A "persistent offender" is one of the following:

(a) A person who has pleaded guilty to or has been found guilty of two or more intoxication-related traffic offenses;

(b) A person who has pleaded guilty to or has been found guilty of involuntary manslaughter pursuant to **subdivision (2) or (3) of** subsection 1 of section 565.024, RSMo, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second degree pursuant to subdivision [(3)] (4) of subsection 1 of section 565.082, RSMo; and

(5) A "prior offender" is a person who has pleaded guilty to or has been found guilty of one intoxication-related traffic offense, where such prior offense occurred within five years of the occurrence of the intoxication-related traffic offense for which the person is charged.

2. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a prior offender shall be guilty of a class A misdemeanor.

3. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a persistent offender shall be guilty of a class D felony.

4. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or section 577.012 who is alleged and proved to be an aggravated offender shall be guilty of a class C felony.

5. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or section 577.012 who is alleged and proved to be a chronic offender shall be guilty of a class B felony.

6. No state, county, or municipal court shall suspend the imposition of sentence as to a prior offender, persistent offender, aggravated offender, or chronic offender under this section nor sentence such person to pay a fine in lieu of a term of imprisonment, section 557.011, RSMo, to the contrary notwithstanding. No prior offender shall be eligible for parole or probation until he or she has served a minimum of five days imprisonment, unless as a condition of such parole or probation such person performs at least thirty days of community service under the supervision of the court in those jurisdictions which have a recognized program for community service. No persistent offender shall be eligible for parole or probation until he or she has served a minimum of ten days imprisonment, unless as a condition of such parole or probation such person performs at least sixty days of community service under the supervision of the court. No aggravated offender shall be eligible for parole or probation until he or she has served a minimum of sixty days imprisonment. No chronic offender shall be eligible for parole or probation until he or she has served a minimum of two years imprisonment.

7. The state, county, or municipal court shall find the defendant to be a prior offender, persistent offender, aggravated offender, or chronic offender if:

(1) The indictment or information, original or amended, or the information in lieu of an indictment pleads all essential facts warranting a finding that the defendant is a prior offender or persistent offender; and

(2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding beyond a reasonable doubt the defendant is a prior offender, persistent offender, aggravated offender, or chronic offender; and

(3) The court makes findings of fact that warrant a finding beyond a reasonable doubt by the court that the defendant is a prior offender, persistent offender, aggravated offender, or chronic offender.

8. In a jury trial, the facts shall be pleaded, established and found prior to submission to the jury outside of its hearing.

9. In a trial without a jury or upon a plea of guilty, the court may defer the proof in findings of such facts to a later time, but prior to sentencing.

10. The defendant shall be accorded full rights of confrontation and cross-examination, with the opportunity to present evidence, at such hearings.

11. The defendant may waive proof of the facts alleged.

12. Nothing in this section shall prevent the use of presentence investigations or commitments.

13. At the sentencing hearing both the state, county, or municipality and the defendant shall be permitted to present additional information bearing on the issue of sentence.

14. The pleas or findings of guilty shall be prior to the date of commission of the present offense.

15. The court shall not instruct the jury as to the range of punishment or allow the jury, upon a finding of guilty, to assess and declare the punishment as part of its verdict in cases of prior offenders, persistent offenders, aggravated offenders, or chronic offenders.

16. Evidence of prior convictions shall be heard and determined by the trial court out of the hearing of the jury prior to the submission of the case to the jury, and shall include but not be limited to evidence of convictions received by a search of the records of the Missouri uniform law enforcement system maintained by the Missouri state highway patrol. After hearing the evidence, the court shall enter its findings thereon. A conviction of a violation of a municipal or county ordinance in a county or municipal court for driving while intoxicated or a conviction

or a plea of guilty or a finding of guilty followed by a suspended imposition of sentence, suspended execution of sentence, probation or parole or any combination thereof in a state court shall be treated as a prior conviction.

[577.023. AGGRAVATED, CHRONIC, PERSISTENT AND PRIOR OFFENDERS — ENHANCED PENALTIES — IMPRISONMENT REQUIREMENTS, EXCEPTIONS — PROCEDURES — DEFINITIONS. — 1. For purposes of this section, unless the context clearly indicates otherwise:

(1) An "aggravated offender" is a person who has pleaded guilty to or been found guilty of three or more intoxication-related traffic offenses or a person who has pleaded guilty to or has been found guilty of involuntary manslaughter under section 565.024, RSMo; murder in the second degree under section 565.021, RSMo, where the underlying felony is an intoxication-related offense; assault in the second degree under subdivision (4) of subsection 1 of section 565.060, RSMo; or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082, RSMo; and in addition, one other intoxication-related traffic offense;

(2) A "chronic offender" is:

(a) A person who has pleaded guilty to or has been found guilty of four or more intoxication-related traffic offenses;

(b) A person who has pleaded guilty to or been found guilty of, on two or more separate occasions, involuntary manslaughter under section 565.024, RSMo, assault in the second degree under subdivision (4) of subsection 1 of section 565.060, RSMo, or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082, RSMo;

(c) A person who has pleaded guilty to or been found guilty of involuntary manslaughter under section 565.024, RSMo, assault in the second degree under subdivision (4) of subsection 1 of section 565.060, RSMo, or assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section 565.082, RSMo, and in addition, two or more intoxication-related traffic offenses;

(3) An "intoxication-related traffic offense" is driving while intoxicated, driving with excessive blood alcohol content, involuntary manslaughter pursuant to section 565.024, RSMo, murder in the second degree pursuant to section 565.021, RSMo, where the underlying felony is an intoxication-related offense, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second degree pursuant to subdivision (3) of subsection 1 of section 565.082, RSMo, or driving under the influence of alcohol or drugs in violation of state law or a county or municipal ordinance, where the defendant was represented by or waived the right to an attorney in writing;

(4) A "persistent offender" is one of the following:

(a) A person who has pleaded guilty to or has been found guilty of two or more intoxication-related traffic offenses;

(b) A person who has pleaded guilty to or has been found guilty of involuntary manslaughter pursuant to section 565.024, RSMo, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second degree pursuant to subdivision (3) of subsection 1 of section 565.082, RSMo; and

(5) A "prior offender" is a person who has pleaded guilty to or has been found guilty of one intoxication-related traffic offense, where such prior offense occurred within five years of the occurrence of the intoxication-related traffic offense for which the person is charged.

2. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a prior offender shall be guilty of a class A misdemeanor.

3. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a persistent offender shall be guilty of a class D felony.

4. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or section 577.012 who is alleged and proved to be an aggravated offender shall be guilty of a class C felony.

5. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or section 577.012 who is alleged and proved to be a chronic offender shall be guilty of a class B felony.

6. No state, county, or municipal court shall suspend the imposition of sentence as to a prior offender, persistent offender, aggravated offender, or chronic offender under this section nor sentence such person to pay a fine in lieu of a term of imprisonment, section 557.011, RSMo, to the contrary notwithstanding. No prior offender shall be eligible for parole or probation until he or she has served a minimum of five days imprisonment, unless as a condition of such parole or probation such person performs at least thirty days of community service under the supervision of the court in those jurisdictions which have a recognized program for community service. No persistent offender shall be eligible for parole or probation until he or she has served a minimum of ten days imprisonment, unless as a condition of such parole or probation such person performs at least sixty days of community service under the supervision of the court. No aggravated offender shall be eligible for parole or probation until he or she has served a minimum of sixty days imprisonment. No chronic offender shall be eligible for parole or probation until he or she has served a minimum of two years imprisonment.

7. The state, county, or municipal court shall find the defendant to be a prior offender, persistent offender, aggravated offender, or chronic offender if:

(1) The indictment or information, original or amended, or the information in lieu of an indictment pleads all essential facts warranting a finding that the defendant is a prior offender or persistent offender; and

(2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding beyond a reasonable doubt the defendant is a prior offender, persistent offender, aggravated offender, or chronic offender; and

(3) The court makes findings of fact that warrant a finding beyond a reasonable doubt by the court that the defendant is a prior offender, persistent offender, aggravated offender, or chronic offender.

8. In a jury trial, the facts shall be pleaded, established and found prior to submission to the jury outside of its hearing.

9. In a trial without a jury or upon a plea of guilty, the court may defer the proof in findings of such facts to a later time, but prior to sentencing.

10. The defendant shall be accorded full rights of confrontation and cross-examination, with the opportunity to present evidence, at such hearings.

11. The defendant may waive proof of the facts alleged.

12. Nothing in this section shall prevent the use of presentence investigations or commitments.

13. At the sentencing hearing both the state, county, or municipality and the defendant shall be permitted to present additional information bearing on the issue of sentence.

14. The pleas or findings of guilty shall be prior to the date of commission of the present offense.

15. The court shall not instruct the jury as to the range of punishment or allow the jury, upon a finding of guilty, to assess and declare the punishment as part of its verdict in cases of prior offenders, persistent offenders, aggravated offenders, or chronic offenders.

16. Evidence of prior convictions shall be heard and determined by the trial court out of the hearing of the jury prior to the submission of the case to the jury, and shall include but not be limited to evidence of convictions received by a search of the records of the Missouri uniform law enforcement system maintained by the Missouri state highway patrol. After hearing the evidence, the court shall enter its findings thereon. A conviction of a violation of a municipal or county ordinance in a county or municipal court for driving while intoxicated or a conviction

or a plea of guilty or a finding of guilty followed by a suspended imposition of sentence, suspended execution of sentence, probation or parole or any combination thereof in a state court shall be treated as a prior conviction.]

[577.625. DISTRIBUTION OF PRESCRIPTION MEDICATION ON PUBLIC OR PRIVATE SCHOOL PROPERTY — EXCEPTIONS — VIOLATIONS, PENALTY. — 1. No person less than eighteen years of age shall distribute upon the real property comprising a public or private elementary or secondary school or school bus a prescription medication to any individual who does not have a valid prescription for such medication. For purposes of this section, prescription medication shall not include medication containing a controlled substance, as defined in section 195.010, RSMo.

2. The provisions of this section shall not apply to any person less than eighteen years of age authorized to distribute a prescription medication by any school personnel who are responsible for storing, maintaining, or dispensing any prescription medication under chapter 338, RSMo. This section shall not limit the use of any prescription medication by emergency personnel, as defined in section 565.081, RSMo, during an emergency situation.

3. Any person less than eighteen years of age who violates this section is guilty of a class B misdemeanor for a first offense and a class A misdemeanor for any second or subsequent offense.]

[577.628. POSSESSION OF PRESCRIPTION MEDICATION ON PUBLIC OR PRIVATE SCHOOL PROPERTY — EXCEPTIONS — VIOLATIONS, PENALTY. — 1. No person less than eighteen years of age shall possess upon the real property comprising a public or private elementary or secondary school or school bus prescription medication without a valid prescription for such medication. For purposes of this section, prescription medication shall not include medication containing a controlled substance, as defined in section 195.010, RSMo.

2. The provisions of this section shall not apply to any person less than eighteen years of age authorized to possess a prescription medication by any school personnel who are responsible for storing, maintaining, or dispensing any prescription medication under chapter 338, RSMo. This section shall not limit the use of any prescription medication by emergency personnel, as defined in section 565.081, RSMo, during an emergency situation.

3. Any person less than eighteen years of age who violates the provisions of this section is guilty of a class C misdemeanor for a first offense and a class B misdemeanor for any second or subsequent offense.]

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to correct statutory inconsistencies regarding criminal liability for certain offenses section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

SECTION C. SEVERABILITY CLAUSE. — If the repeal and reenactment of sections 311.310, 565.024, 568.050, and 577.023 and the repeal of sections 311.310, 568.050, 577.023, 577.625 and 577.628 of section A of this act or the application thereof to anyone or to any circumstances is held invalid, the remainder of those sections and the application of such provisions to others or other circumstances shall not be affected thereby.

Approved September 15, 2005

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Prohibits the posting of certain personal information on the internet.

AN ACT to repeal section 1 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for house committee substitute for senate committee substitute for senate bills nos. 420 & 344 and approved by the governor on July 13, 2005, and to enact in lieu thereof one new section relating to the posting of certain information on the Internet, with a penalty provision and an emergency clause.

SECTION

- A. Enacting clause.
 - 1. Posting of certain information over the Internet prohibited, when.
- B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 1 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for house committee substitute for senate committee substitute for senate bills nos. 420 & 344 and approved by the governor on July 13, 2005, is repealed and one new section enacted in lieu thereof, to be known as section 1, to read as follows:

SECTION 1. POSTING OF CERTAIN INFORMATION OVER THE INTERNET PROHIBITED, WHEN. — [1. No court or state or local agency shall post the home address, Social Security number, or telephone number of any elected or appointed official on the Internet without first obtaining the written permission of such official.

2.] No person shall knowingly post the **name**, home address, Social Security number, or telephone number of any [elected or appointed official, or of such official's residing spouse or child] **person** on the Internet [knowing that person is an elected or appointed official and] intending to cause [imminent] great bodily harm [that is likely to occur] **or death**, or threatening to cause [imminent] great bodily harm **or death** to such [official, spouse, or child] **person**. Any person who violates this [subsection] **section** is guilty of a class C misdemeanor.

[3. For purposes of this section, "elected or appointed official" includes but is not limited to all of the following:

- (1) State constitutional officers;
- (2) Members of the Missouri general assembly;
- (3) Judges, court commissioners, and circuit clerks;
- (4) Directors of state departments;
- (5) Prosecuting attorneys and assistant prosecuting attorneys;
- (6) Public defenders;
- (7) County commissioners;
- (8) Members of a city council;
- (9) Mayors;
- (10) City attorneys and county counselors;
- (11) Police chiefs and sheriffs;
- (12) Peace officers under chapter 590, RSMo;
- (13) Probation and parole officers, and members of the parole board.

4. Upon becoming aware that his or her home address, Social Security number, or telephone number has been made available over the Internet, any person covered by this section shall inform the court or state or local agency of such fact and request removal of such information. Upon becoming aware, the failure of a person covered by this section to notify a

state or public agency shall relieve such agency of the obligation to remove prohibited information.]

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to prevent assessment of liability for the unintentional dissemination of certain information on the Internet section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved September 15, 2005

SB 1 [SB 1]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies laws relating to abortion.

AN ACT to repeal section 188.080, RSMo, and to enact in lieu thereof three new sections relating to abortion, with penalty provisions and an emergency clause.

SECTION

- A. Enacting clause.
- 188.031. Next friend defined for purposes of the procedure for a minor to obtain an abortion.
- 188.080. Abortion performed by other than a physician with surgical privileges at a hospital, a felony.
- 188.250. Causing, aiding, or assisting a minor to obtain an abortion prohibited, civil penalty — impermissible defenses — court injunction authorized, when.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 188.080, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 188.031, 188.080, and 188.250, to read as follows:

188.031. NEXT FRIEND DEFINED FOR PURPOSES OF THE PROCEDURE FOR A MINOR TO OBTAIN AN ABORTION. — For purposes of section 188.028, the term "next friend" shall not include another minor child, or any entity or person in an individual or representative capacity that has a financial interest or potential gain from the proposed abortion, or any employee of or volunteer for such entity or person.

188.080. ABORTION PERFORMED BY OTHER THAN A PHYSICIAN WITH SURGICAL PRIVILEGES AT A HOSPITAL, A FELONY. — [Notwithstanding any other penalty provision in this chapter,] Any person who is not a [licensed] physician [as defined in section 188.015] who performs **or induces** or attempts to perform **or induce** an abortion on another [as defined in subdivision (1) of section 188.015,] is guilty of a class B felony, and, upon conviction, shall be punished as provided by law. Any physician performing **or inducing** an abortion who does not have [surgical] **clinical** privileges at a hospital which offers obstetrical or gynecological care **located within thirty miles of the location at which the abortion is performed or induced** shall be guilty of a class [B felony] **A misdemeanor**, and, upon conviction shall be punished as provided by law.

188.250. CAUSING, AIDING, OR ASSISTING A MINOR TO OBTAIN AN ABORTION PROHIBITED, CIVIL PENALTY — IMPERMISSIBLE DEFENSES — COURT INJUNCTION AUTHORIZED, WHEN. — 1. No person shall intentionally cause, aid, or assist a minor to obtain an abortion without the consent or consents required by section 188.028.

2. A person who violates subsection 1 of this section shall be civilly liable to the minor and to the person or persons required to give the consent or consents under section 188.028. A court may award damages to the person or persons adversely affected by a violation of subsection 1 of this section, including compensation for emotional injury without the need for personal presence at the act or event, and the court may further award attorneys' fees, litigation costs, and punitive damages. Any adult who engages in or consents to another person engaging in a sex act with a minor in violation of the provisions of chapters 566, 567, 568, or 573, RSMo, which results in the minor's pregnancy shall not be awarded damages under this section.

3. It shall not be a defense to a claim brought under this section that the abortion was performed or induced pursuant to consent to the abortion given in a manner that is otherwise lawful in the state or place where the abortion was performed or induced.

4. An unemancipated minor does not have capacity to consent to any action in violation of this section or section 188.028.

5. A court may enjoin conduct that would be in violation of this section upon petition by the attorney general, a prosecuting or circuit attorney, or any person adversely affected or who reasonably may be adversely affected by such conduct, upon a showing that such conduct:

(1) Is reasonably anticipated to occur in the future; or

(2) Has occurred in the past, whether with the same minor or others, and that it is not unreasonable to expect that such conduct will be repeated.

SECTION B. EMERGENCY CLAUSE. — Because of the need to ensure the health and safety of any person obtaining an abortion and to ensure compliance with existing abortion regulations, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved September 15, 2005

SB 4 [SB 4]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the application of the workers' compensation system to certain cases.

AN ACT to repeal section 287.110 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for house committee substitute for senate substitute for senate committee substitute for senate bills nos. 1 & 130 and approved by the governor on March 30, 2005, and to enact in lieu thereof one new section relating to the applicability of workers' compensation law.

SECTION

A. Enacting clause.

287.110. Scope of chapter as to injuries and diseases covered.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 287.110 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for house committee substitute for senate substitute for senate committee substitute for senate bills nos. 1 & 130 and approved by the governor on March 30, 2005, is repealed and one new section enacted in lieu thereof, to be known as section 287.110, to read as follows:

287.110. SCOPE OF CHAPTER AS TO INJURIES AND DISEASES COVERED. — 1. This chapter shall apply to all cases within its provisions except those exclusively covered by any federal law [and those addressed in section 287.120].

2. This chapter shall apply to all injuries received and occupational diseases contracted in this state, regardless of where the contract of employment was made, and also to all injuries received and occupational diseases contracted outside of this state under contract of employment made in this state, unless the contract of employment in any case shall otherwise provide, and also to all injuries received and occupational diseases contracted outside of this state where the employee's employment was principally localized in this state within thirteen calendar weeks of the injury or diagnosis of the occupational disease.

Approved September 15, 2005

HB 1001 [CCS SCS HB 1001]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: BOARD OF FUND COMMISSIONERS.

AN ACT to appropriate money to the Board of Fund Commissioners for the cost of issuing, processing and defeasing State Water Pollution Control Bonds, Stormwater Control Bonds, Third State Building Bonds, and Fourth State Building Bonds, as provided by law, to include payments from the Water Pollution Control Bond and Interest Fund, Stormwater Control Bond and Interest Fund, Third State Building Bond Interest and Sinking Fund, Fourth State Building Bond and Interest Fund, Water Pollution Control Fund, Stormwater Control Fund, and to transfer money among certain funds for the period beginning July 1, 2006 and ending June 30, 2007.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28, of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2006 and ending June 30, 2007, as follows:

SECTION 1.010.— To the Board of Fund Commissioners
For annual fees, arbitrage rebate, refunding, defeasance, and related expenses
From General Revenue Fund. \$20,002E

SECTION 1.015.— There is transferred out of the State Treasury, chargeable to
the General Revenue Fund, to the Fourth State Building Bond and Interest
Fund for currently outstanding general obligations
From General Revenue Fund. \$17,086,832

SECTION 1.020.— To the Board of Fund Commissioners
For payment of interest and sinking fund requirements on fourth state building
bonds currently outstanding as provided by law
From Fourth State Building Bond and Interest Fund. \$10,969,182

SECTION 1.025.— There is transferred out of the State Treasury, chargeable to the
General Revenue Fund, to the Water Pollution Control Bond and Interest Fund
for currently outstanding general obligations
From General Revenue Fund. \$20,675,468E

There is transferred out of the State Treasury, chargeable to the Water and
Wastewater Loan Revolving Fund pursuant to Title 33, Chapter 26,
Subchapter VI, Section 1383, U.S. Code, to the Water Pollution Control
Bond and Interest Fund for currently outstanding general obligations
From Water and Wastewater Loan Revolving Fund. 6,287,634
Total. \$26,963,102

SECTION 1.030.— To the Board of Fund Commissioners
For payment of interest and sinking fund requirements on water pollution control

bonds currently outstanding as provided by law
 From Water Pollution Control Bond and Interest Fund. \$25,361,464

SECTION 1.035.— There is transferred out of the State Treasury, chargeable to the
 General Revenue Fund, to the Stormwater Control Bond and Interest Fund
 for currently outstanding general obligations
 From General Revenue Fund. \$2,579,527

SECTION 1.040.— To the Board of Fund Commissioners
 For payment of interest and sinking fund requirements on stormwater control
 bonds currently outstanding as provided by law
 From Stormwater Control Bond and Interest Fund. \$2,579,171

SECTION 1.045.— There is transferred out of the State Treasury, chargeable to the
 General Revenue Fund, to the Third State Building Bond Interest and Sinking
 Fund for currently outstanding general obligations
 From General Revenue Fund. \$50,996,863

SECTION 1.050.— To the Board of Fund Commissioners
 For payment of interest and sinking fund requirements on third state building
 bonds currently outstanding as provided by law
 From Third State Building Bond Interest and Sinking Fund. \$50,509,288

BILL TOTALS

General Revenue Fund.	\$91,358,692
Other Funds.	6,287,634
Total.	<u>\$97,646,326</u>

Approved June 21, 2006

HB 1002 [CCS SCS HCS HB 1002]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: STATE BOARD OF EDUCATION AND DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the State Board of Education and the Department of Elementary and Secondary Education, the Office of Administration, and several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2006 and ending June 30, 2007.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for

no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2006 and ending June 30, 2007, as follows:

SECTION 2.005.— To the Department of Elementary and Secondary Education
For the Division of General Administration

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.....	\$2,290,635
From Federal Funds.	<u>1,635,583</u>
Total (Not to exceed 69.50 F.T.E.).....	\$3,926,218

SECTION 2.007.— To the Department of Elementary and Secondary Education
For the Office of Administration

For the purpose of funding fuel and utilities
Expense and Equipment

From General Revenue Fund.....	\$1,369,015
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For the purpose of funding building maintenance and repair service contracts

Expense and Equipment

From General Revenue Fund.....	<u>21,186</u>
Total.	\$1,390,201

SECTION 2.010.— To the Department of Elementary and Secondary Education

For construction and site acquisition costs to accommodate any reasonably
anticipated net enrollment increase caused by any reduction or elimination
of the voluntary transfer plan as approved by the United States Court of
the Eastern District of Missouri pursuant to Senate Bill 781 (1998)

From General Revenue Fund.....	\$12,000,000
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SECTION 2.015.— To the Department of Elementary and Secondary Education

For distributions to the free public schools under the School Foundation Program
as provided in Chapter 163, RSMo, as follows: At least \$2,707,281,434 for
the foundation formula, and no more than \$162,667,713 for Transportation;
\$96,311,209 for Early Childhood Special Education; \$37,284,374 for Career
Ladder; \$52,880,428 for Vocational Education; and \$32,304,651 for Early
Childhood Development

From Outstanding Schools Trust Fund.	\$490,197,395
From State School Moneys Fund.....	2,192,344,224
From Lottery Proceeds Fund	108,979,552
From Classroom Trust Fund.	297,208,638

For the Small Schools program

From State School Moneys Fund.....	15,000,000
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For State Board of Education operated school programs

Personal Service and/or Expense and Equipment, provided that not more than
twenty (20%) flexibility is allowed between each appropriation

From General Revenue Fund.....	42,674,983
From Federal Funds ..	4,178,641

Expense and Equipment

From Bingo Proceeds for Education Fund.	<u>1,707,167</u>
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Total (Not to exceed 852.85 F.T.E.). \$3,152,290,600

SECTION 2.020.— To the Department of Elementary and Secondary Education

For early grade literacy programs offered at Southeast Missouri State University

From General Revenue Fund. \$105,000

From Lottery Proceeds Fund 145,000

From Outstanding Schools Trust Fund. 250,000

Total. \$500,000

SECTION 2.025.— To the Department of Elementary and Secondary Education

For the School Food Services Program to reimburse schools for breakfasts
and lunches

From General Revenue Fund. \$3,412,151

From Federal Funds 191,825,650E

Total. \$195,237,801

SECTION 2.030.— To the Department of Elementary and Secondary Education

For distributions to the public elementary and secondary schools in this state,
pursuant to Chapters 144, 163, and 164, RSMo, pertaining to the School
District Trust Fund

From School District Trust Fund.. . . . \$770,300,000E

SECTION 2.035.— To the Department of Elementary and Secondary Education

For costs associated with school district bonds

From School District Bond Fund. \$592,000

SECTION 2.040.— To the Department of Elementary and Secondary Education

For receiving and expending donations and federal funds provided that the General

Assembly shall be notified of the source of any new funds and the purpose
for which they shall be expended, in writing, prior to the expenditure of
said funds

From Federal and Other Funds. \$15,000,000E

SECTION 2.045.— To the Department of Elementary and Secondary Education

For the Division of School Improvement

Personal Service and/or Expense and Equipment, provided that not more than
twenty (20%) flexibility is allowed between each appropriation

From General Revenue Fund. \$1,477,573

From Federal Funds 7,359,000

From Lottery Proceeds Fund 125,000

For the Division of Career Education

Personal Service and/or Expense and Equipment, provided that not more than
twenty (20%) flexibility is allowed between each appropriation

From General Revenue Fund. 1,404,854

From Federal Funds 2,890,750

For the Division of Special Education

Personal Service and/or Expense and Equipment, provided that not more than
twenty (20%) flexibility is allowed between each appropriation

From General Revenue Fund. 236,697

From Federal Funds 2,288,275

For the Division of Teacher Quality and Urban Education

Personal Service and/or Expense and Equipment, provided that not more than twenty (20%) flexibility is allowed between each appropriation

From General Revenue Fund.....	1,104,523
From Federal Funds	52,465
From Excellence in Education Fund.....	2,939,102
Total (Not to exceed 257.16 F.T.E.).....	\$19,878,239

SECTION 2.050.— To the Department of Elementary and Secondary Education

For the Technology Grants Program and for planning and implementing computer network infrastructure for public elementary and secondary schools, including computer access to the Department of Elementary and Secondary Education and to improve the use of classroom technology

From Federal Funds. \$5,000,000

SECTION 2.055.— To the Department of Elementary and Secondary Education

For improving basic programs operated by local education agencies under Title I of the No Child Left Behind Act

From Federal Funds. \$190,000,000E

SECTION 2.060.— To the Department of Elementary and Secondary Education

For the Reading First Grant Program under Title I of the No Child Left Behind Act

From Federal Funds. \$29,908,815E

SECTION 2.065.— To the Department of Elementary and Secondary Education

For innovative educational program strategies under Title V of the No Child Left Behind Act

From Federal Funds. \$3,500,000E

SECTION 2.070.— To the Department of Elementary and Secondary Education

For programs for the gifted from interest earnings accruing in the Stephen Morgan Ferman Memorial for Education of the Gifted

From State School Moneys Fund..... \$10,000E

SECTION 2.075.— To the Department of Elementary and Secondary Education

For the Missouri Scholars and Fine Arts Academies

From General Revenue Fund..... \$618,460

SECTION 2.080.— To the Department of Elementary and Secondary Education

For reimbursements to school districts for the Early Childhood Program, Hard-to-Reach Incentives, and Parent Education in conjunction with the Early Childhood Education and Screening Program

From General Revenue Fund.....	\$73,200
From Federal Funds	824,000
From State School Moneys Fund.....	125,000

For grants to higher education institutions or area vocational technical schools for the Child Development Associate Certificate Program in collaboration with the Coordinating Board for Higher Education

From Federal Funds

For grants to school districts under the Early Childhood Development, Education and

Care Program, including up to \$25,000 in expense and equipment, for program administration
 From Early Childhood Development, Education and Care Fund. 14,757,600
 Total. \$16,179,800

SECTION 2.085.— To the Department of Elementary and Secondary Education
 For the Head Start Collaboration Program
 From Federal Funds. \$300,000E

SECTION 2.090.— To the Department of Elementary and Secondary Education
 For the A+ Schools Program
 From General Revenue Fund. \$3,477,778
 From Lottery Proceeds Fund. 14,750,941
 Total. \$18,228,719

SECTION 2.095.— To the Department of Elementary and Secondary Education
 For the Performance Based Assessment Program
 From General Revenue Fund. \$378,355
 From Federal Funds 7,184,722
 From Outstanding Schools Trust Fund. 128,125
 From Lottery Proceeds Fund. 4,568,630
 Total. \$12,259,832

SECTION 2.100.— To the Department of Elementary and Secondary Education
 For courses, exams, and other expenses that lead to high school students receiving
 college credit and Advanced Placement examination fees for low-income families
 From Federal Funds. \$20,000

SECTION 2.105.— To the Department of Elementary and Secondary Education
 For the Instructional Improvement Grants Program pursuant to Title II Improving
 Teacher Quality
 From Federal Funds. \$64,348,890E

SECTION 2.110.— To the Department of Elementary and Secondary Education
 For the Safe and Drug Free Schools Grants Program pursuant to Title IV of the
 No Child Left Behind Act
 From Federal Funds. \$9,600,000E

SECTION 2.115.— To the Department of Elementary and Secondary Education
 For a safe schools initiative to include, but not be limited to, safe school grants,
 alternative education program grants, equipment, anti-violence curriculum
 development, and conflict resolution
 From General Revenue Fund. \$3,122,368

SECTION 2.120.— To the Department of Elementary and Secondary Education
 For the Public Charter Schools Program
 From Federal Funds. \$2,432,000

SECTION 2.125.— To the Department of Elementary and Secondary Education
 For teacher education student scholarships at four-year colleges or universities in
 Missouri pursuant to the Excellence in Education Act
 From General Revenue Fund. \$249,000

For minority student scholarships pursuant to Section 161.415, RSMo	
From Lottery Proceeds Fund.	<u>200,000</u>
Total.	\$449,000

SECTION 2.130.— To the Department of Elementary and Secondary Education
For grants to public schools for whole-school, research-based reform programs
From Federal Funds. \$4,000,000E

SECTION 2.135.— To the Department of Elementary and Secondary Education
For grants to rural and low-income schools
From Federal Funds. \$3,600,000E

SECTION 2.140.— To the Department of Elementary and Secondary Education
For language acquisition pursuant to Title III of the No Child Left Behind Act
From Federal Funds. \$5,200,000E

SECTION 2.145.— To the Department of Elementary and Secondary Education
For the Refugee Children School Impact Grants Program
From Federal Funds. \$800,000

SECTION 2.150. — To the Department of Elementary and Secondary Education	
For character education initiatives	
From Federal Funds.	\$600,000
From Lottery Proceeds Fund.	<u>350,000</u>
Total.	\$950,000

SECTION 2.155.— To the Department of Elementary and Secondary Education
For the Gold Star Schools Program
From Federal Funds. \$15,000E

SECTION 2.160.— To the Department of Elementary and Secondary Education
For the Schools with Distinction Program
From Federal Funds. \$13,000E

SECTION 2.165. — To the Department of Elementary and Secondary Education	
For the Transition to Teaching Program.	\$250,000
For the Missouri State Action for Education Leadership Project.	<u>300,000</u>
From Federal Funds.	\$550,000

SECTION 2.170. — To the Department of Elementary and Secondary Education	
For the Division of Vocational Rehabilitation	
Personal Service.	\$24,830,688
Expense and Equipment.	<u>3,572,207</u>
From Federal Funds (Not to exceed 645.95 F.T.E.).	\$28,402,895

SECTION 2.175. — To the Department of Elementary and Secondary Education	
For the Vocational Rehabilitation Program	
From General Revenue Fund.	\$11,377,105
From Federal Funds	39,061,770
From Payments by the Department of Mental Health	1,000,000
From Lottery Proceeds Fund.	<u>1,400,000</u>
Total.	\$52,838,875

SECTION 2.180.— To the Department of Elementary and Secondary Education
For the Disability Determination Program
From Federal Funds. \$16,000,000

SECTION 2.185.— To the Department of Elementary and Secondary Education
For Independent Living Centers
From General Revenue Fund. \$2,581,486
From Federal Funds 1,592,546
From Independent Living Center Fund. 390,556
Total. \$4,564,588

SECTION 2.190.— To the Department of Elementary and Secondary Education
For the Project SUCCESS Program
From Federal Funds. \$500,000

SECTION 2.195.— To the Department of Elementary and Secondary Education
For distributions to providers of vocational education programs
From Federal Funds. \$27,000,000

SECTION 2.200.— To the Department of Elementary and Secondary Education
For job training programs pursuant to the Workforce Investment Act
From Federal Funds. \$9,000,000E

SECTION 2.205.— To the Department of Elementary and Secondary Education
For distributions to educational institutions for the Adult Basic Education Program
From General Revenue Fund. \$4,546,657
From Federal Funds 12,000,000
From Outstanding Schools Trust Fund. 824,480
Total. \$17,371,137

SECTION 2.210.— To the Department of Elementary and Secondary Education
For the School Age Child Care Program
From General Revenue Fund. \$75,000
From Federal Funds. 17,408,383
Total. \$17,483,383

SECTION 2.215.— To the Department of Elementary and Secondary Education
For the Troops to Teachers Program
From Federal Funds. \$153,610

SECTION 2.220.— To the Department of Elementary and Secondary Education
For the Special Education Program
From Federal Funds. \$225,315,211E

SECTION 2.225.— To the Department of Elementary and Secondary Education
For special education excess costs
From Lottery Proceeds Fund. \$12,060,000

SECTION 2.230.— To the Department of Elementary and Secondary Education
For the First Steps Program
From General Revenue Fund. \$14,650,703
From Federal Funds 7,761,583E

From Early Childhood Development, Education and Care Fund.	578,644
From Part C Early Intervention Fund.	<u>5,095,254E</u>
Total.	\$28,086,184

SECTION 2.235.— To the Department of Elementary and Secondary Education
For payments to school districts for children in residential placements through the
Department of Mental Health or the Department of Social Services pursuant to
Section 167.126, RSMo

From General Revenue Fund.	\$2,330,731
From Lottery Proceeds Fund.	<u>7,768,606</u>
Total.	\$10,099,337

SECTION 2.240.— To the Department of Elementary and Secondary Education
For operational maintenance and repairs for State Board of Education operated schools

From Facilities Maintenance Reserve Fund.	\$57,950
From Lottery Proceeds Fund.	<u>342,754</u>
Total.	\$400,704

SECTION 2.245.— To the Department of Elementary and Secondary Education
For the Sheltered Workshops Program

From General Revenue Fund.	\$18,598,625
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SECTION 2.250.— To the Department of Elementary and Secondary Education
For payments to readers for blind or visually disabled students in elementary and
secondary schools

From State School Moneys Fund.	\$25,000
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SECTION 2.255.— To the Department of Elementary and Secondary Education
For a task force on blind student academic and vocational performance

From General Revenue Fund.	\$165,000
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SECTION 2.260.— To the Department of Elementary and Secondary Education
For the Missouri School for the Deaf

From School for the Deaf Trust Fund.	\$25,000E
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SECTION 2.265.— To the Department of Elementary and Secondary Education
For the Missouri School for the Blind

From School for the Blind Trust Fund.	\$1,500,000E
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SECTION 2.267.— To the Department of Elementary and Secondary Education
For the Missouri Special Olympics Program

From General Revenue Fund.	\$50,000
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SECTION 2.270.— To the Department of Elementary and Secondary Education
For the State Schools for Severely Handicapped Children

From Handicapped Children's Trust Fund.	\$30,000E
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SECTION 2.275.— To the Department of Elementary and Secondary Education
For the Missouri Commission for the Deaf and Hard of Hearing

Personal Service and/or Expense and Equipment, provided not more than
twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund. \$264,077
 From Missouri Commission for the Deaf and Hard of Hearing Fund 50,200

Expense and Equipment
 From Certification of Interpreters Fund. 117,000
 Total (Not to exceed 7.00 F.T.E.). \$431,277

SECTION 2.280.— To the Department of Elementary and Secondary Education
 For the Missouri Assistive Technology Council

Personal Service and/or Expense and Equipment, provided not more than
 twenty percent (20%) flexibility is allowed between each appropriation
 From Federal Funds. \$802,107
 From Deaf Relay Services and Equipment Distribution Fund 2,158,266
 From Assistive Technology Loan Revolving Fund. 546,592

Expense and Equipment
 From Missouri Assistive Technology Trust Fund. 750,000
 Total (Not to exceed 10.00 F.T.E.). \$4,256,965

SECTION 2.285.— To the Department of Elementary and Secondary Education
 For the Children's Services Commission

From Children's Service Commission Fund. \$10,000

SECTION 2.290.— To the Department of Elementary and Secondary Education
 Funds are to be transferred out of the State Treasury, chargeable to the Missouri
 Assistive Technology's federal fund, to the Missouri Assistive Technology Trust
 Fund

From Federal Funds. \$500,000

SECTION 2.295.— To the Department of Elementary and Secondary Education
 Funds are to be transferred out of the State Treasury, chargeable to the General
 Revenue Fund, to the State School Moneys Fund

From General Revenue Fund. \$2,033,218,993

SECTION 2.300.— To the Department of Elementary and Secondary Education
 Funds are to be transferred out of the State Treasury, chargeable to the General
 Revenue Fund-County Foreign Tax Distribution, to the State School
 Moneys Fund

From General Revenue Fund. \$86,550,000E

SECTION 2.305.— To the Department of Elementary and Secondary Education
 Funds are to be transferred out of the State Treasury, chargeable to the Fair Share
 Fund, to the State School Moneys Fund

From Fair Share Fund. \$23,400,000E

SECTION 2.310.— To the Department of Elementary and Secondary Education
 Funds are to be transferred out of the State Treasury, chargeable to the General
 Revenue Fund, to the Outstanding Schools Trust Fund

From General Revenue Fund. \$491,400,000E

SECTION 2.315.— To the Department of Elementary and Secondary Education

Funds are to be transferred out of the State Treasury, chargeable to the Gaming
 Proceeds for Education Fund, to the Classroom Trust Fund
 From Gaming Proceeds for Education Fund. \$289,586,296E

SECTION 2.320.— To the Department of Elementary and Secondary Education
 Funds are to be transferred out of the State Treasury, chargeable to the Lottery
 Proceeds Fund, to the Classroom Trust Fund
 From Lottery Proceeds Fund. \$7,622,342

SECTION 2.325.— To the Department of Elementary and Secondary Education
 Funds are to be transferred out of the State Treasury, chargeable to the Gaming
 Proceeds for Education Fund, to the School District Bond Fund
 From Gaming Proceeds for Education Fund. \$495,926

SECTION 2.330.— To the Department of Elementary and Secondary Education
 Funds are to be transferred out of the State Treasury, chargeable to the School
 Building Revolving Fund, to the State School Moneys Fund
 From School Building Revolving Fund. \$2,000,000E

BILL TOTALS

General Revenue Fund.	\$2,739,824,155
Federal Funds.	939,524,896
Other Funds.	<u>1,337,181,733</u>
Total.	\$5,016,530,784

Approved June 21, 2006

HB 1003 [CCS SCS HCS HB 1003]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: DEPARTMENT OF HIGHER EDUCATION.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Higher Education, the several divisions, programs, and institutions of higher education included therein to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2006 and ending June 30, 2007.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the state treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2006 and ending June 30, 2007, as follows:

SECTION 3.005.— To the Department of Higher Education
 For Higher Education Coordination, for regulation of proprietary schools as provided
 in Section 173.600, RSMo, and for grant and scholarship program administration

Personal Service and/or Expense and Equipment, provided that not more than twenty (20%) flexibility is allowed between each appropriation	
From General Revenue Fund.	\$722,457
From Federal and Other Funds	<u>225,000E</u>
Total (Not to exceed 18.65 F.T.E.).	\$947,457

SECTION 3.010.— To the Department of Higher Education

For indemnifying individuals as a result of improper actions on the part of proprietary schools as provided in Section 173.612, RSMo

From Proprietary School Bond Fund.	\$100,000
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SECTION 3.015.— To the Department of Higher Education

For annual membership in the Midwestern Higher Education Commission

From General Revenue Fund.	\$90,000
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SECTION 3.020.— To the Department of Higher Education

For the Eisenhower Science and Mathematics Program and the Improving Teacher

Quality State Grants Program

Personal Service.	\$60,346
Expense and Equipment	20,400
Federal Education Programs.	<u>1,698,000</u>
From Federal Funds (Not to exceed 1.00 F.T.E.).	\$1,778,746

SECTION 3.025.— To the Department of Higher Education

For receiving and expending donations and federal funds provided that the General Assembly shall be notified of the source of any new funds and the purpose for which they shall be expended, in writing, prior to the expenditure of said funds

From Federal and Other Funds.	\$2,000,000
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SECTION 3.030.— To the Department of Higher Education

Funds are to be transferred out of the state treasury, chargeable to the General Revenue Fund, to the Academic Scholarship Fund

From General Revenue Fund.	\$15,987,000
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SECTION 3.035.— To the Department of Higher Education

For the Higher Education Academic Scholarship Program pursuant to Chapter 173, RSMo

From Academic Scholarship Fund.	\$15,987,000E
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SECTION 3.040.— To the Department of Higher Education

Funds are to be transferred out of the state treasury, chargeable to the funds listed below, to the Student Grant Fund

From General Revenue Fund.	\$17,107,854
From Federal Funds	1,000,000E
From Missouri Student Grant Program Gift Fund.	<u>50,000E</u>
Total.	\$18,157,854

SECTION 3.045.— To the Department of Higher Education

For the Charles E. Gallagher Grants Program pursuant to Chapter 173, RSMo

From Student Grant Fund.	\$18,157,854E
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SECTION 3.050.— To the Department of Higher Education

Funds are to be transferred out of the state treasury, chargeable to the funds listed below, to the Missouri College Guarantee Fund

From General Revenue Fund.....	\$1,195,582
From Lottery Proceeds Fund	<u>2,750,000</u>
Total.	\$3,945,582

SECTION 3.055.— To the Department of Higher Education

For the Missouri College Guarantee Program pursuant to Chapter 173, RSMo

From Missouri College Guarantee Fund. \$9,155,582E

SECTION 3.060.— To the Department of Higher Education

For the Public Service Officer or Employee Survivor Grant Program pursuant to Section 173.260, RSMo

From General Revenue Fund. \$60,710

SECTION 3.065.— To the Department of Higher Education

For the Vietnam Veterans Survivors Scholarship Program pursuant to Section 173.235, RSMo

From General Revenue Fund. \$50,000

SECTION 3.070.— To the Department of Higher Education

Funds are to be transferred out of the state treasury, chargeable to the General Revenue Fund, to the Marguerite Ross Barnett Scholarship Fund

From General Revenue Fund. \$425,000

SECTION 3.075.— To the Department of Higher Education

For the Marguerite Ross Barnett Scholarship Program pursuant to Section 173.262, RSMo

From Marguerite Ross Barnett Scholarship Fund.. . . . \$425,000E

***SECTION 3.078.**— To the Department of Higher Education

For Access Missouri Scholarships

From General Revenue Fund. \$10,000,000

*I hereby veto \$10,000,000 general revenue for the Access Missouri Scholarship Program. The failure to pass House Bill No. 1865 was clearly due to the General Assembly's lack of agreement with regard to the scholarship program and a much larger higher education initiative.

Said section is vetoed in its entirety by \$10,000,000 to \$0 from General Revenue Fund.

From \$10,000,000 to \$0 in total for the section.

MATT BLUNT, GOVERNOR

SECTION 3.080.— To the Department of Higher Education

For the GEAR UP Program

Personal Service.	\$227,926
Expense and Equipment	538,867
Federal Education Programs.	<u>697,572</u>
From Federal Funds	1,464,365

For scholarships

From GEAR UP Scholarship Fund.....	200,000E
Total (Not to exceed 5.50 F.T.E.).	\$1,664,365

SECTION 3.085.— To the Department of Higher Education

For the Missouri Guaranteed Student Loan Program

Personal Service and/or Expense and Equipment.....	\$10,992,363
Default prevention activities	890,000
Payment of fees for collection of defaulted loans	4,000,000E
Payment of penalties to the federal government associated with late deposit of default collections.	500,000
From Guaranty Agency Operating Fund (Not to exceed 50.77 F.T.E.).	\$16,382,363

SECTION 3.090.— To the Department of Higher Education

Funds are to be transferred out of the state treasury, chargeable to the Federal

Student Loan Reserve Fund, to the Guaranty Agency Operating Fund

From Federal Student Loan Reserve Fund.	\$8,000,000E
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SECTION 3.095.— To the Department of Higher EducationFor purchase of defaulted loans, payment of default aversion fees, reimbursement
to the federal government, and investment of funds in the Federal Student
Loan Reserve Fund

From Federal Student Loan Reserve Fund.	\$85,000,000
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SECTION 3.100.— To the Department of Higher Education

For payment of refunds set off against debt as required by Section 143.786, RSMo

From Debt Offset Escrow Fund.	\$250,000E
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SECTION 3.105.— To the Department of Higher EducationFunds are to be transferred out of the state treasury, chargeable to the Guaranty
Agency Operating Fund, to the Federal Student Loan Reserve Fund

From Guaranty Agency Operating Fund.	\$1,000,000E
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SECTION 3.110.— To the Department of Higher Education

For distribution to community colleges as provided in Section 163.191, RSMo

From General Revenue Fund.	\$90,322,521
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From Lottery Proceeds Fund	6,120,132
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For program improvements in workforce preparation with the emphasis to provide
education and training at community colleges for unemployed and under-employed
citizens

From General Revenue Fund.	1,644,085
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For selected out-of-district courses

From General Revenue Fund.	1,175,986
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For workforce preparation projects

From General Revenue Fund.	14,961,443
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From Lottery Proceeds Fund	1,332,353
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For Regional Technical Education Initiatives

From General Revenue Fund.	20,448,307
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For the payment of refunds set off against debt as required by Section 143.786, RSMo
 From Debt Offset Escrow Fund. 250,000E
 Total. \$136,254,827

SECTION 3.114. — To the Department of Higher Education

For Moberly Area Community College
 For an intergenerational day care pilot program
 From General Revenue Fund. \$25,000

SECTION 3.115. — To Linn State Technical College

All Expenditures
 From General Revenue Fund. \$4,213,605
 From Lottery Proceeds Fund 420,528

For the payment of refunds set off against debt as required by Section 143.786, RSMo
 From Debt Offset Escrow Fund. 30,000E
 Total. \$4,664,133

SECTION 3.120. — To Central Missouri State University

All Expenditures
 From General Revenue Fund. \$49,977,498
 From Lottery Proceeds Fund 4,985,715

For the payment of refunds set off against debt as required by Section 143.786, RSMo
 From Debt Offset Escrow Fund. 75,000E
 Total. \$55,038,213

SECTION 3.125. — To Southeast Missouri State University

All Expenditures
 From General Revenue Fund. \$40,674,294
 From Lottery Proceeds Fund 4,059,895

For the payment of refunds set off against debt as required by Section 143.786, RSMo
 From Debt Offset Escrow Fund. 75,000E
 Total. \$44,809,189

SECTION 3.130. — To Missouri State University

All Expenditures
 From General Revenue Fund. \$74,255,123
 From Lottery Proceeds Fund 7,675,409

For the payment of refunds set off against debt as required by Section 143.786, RSMo
 From Debt Offset Escrow Fund. 75,000E
 Total. \$82,005,532

SECTION 3.135. — To Lincoln University

All Expenditures
 From General Revenue Fund. \$15,573,979
 From Lottery Proceeds Fund 1,551,205

For the payment of refunds set off against debt as required by Section 143.786, RSMo
 From Debt Offset Escrow Fund. 75,000E

Total. \$17,200,184

SECTION 3.140.— To Truman State University

All Expenditures

From General Revenue Fund. \$37,818,114

From Lottery Proceeds Fund 3,776,109

For the payment of refunds set off against debt as required by Section 143.786, RSMo

From Debt Offset Escrow Fund. 75,000E

Total. \$41,669,223

SECTION 3.145.— To Northwest Missouri State University

All Expenditures

From General Revenue Fund. \$27,884,650

From Lottery Proceeds Fund 2,599,805

For the payment of refunds set off against debt as required by Section 143.786, RSMo

From Debt Offset Escrow Fund. 75,000E

Total. \$30,559,455

SECTION 3.150.— To Missouri Southern State University

All Expenditures

From General Revenue Fund. \$19,566,183

From Lottery Proceeds Fund 1,972,820

For the payment of refunds set off against debt as required by Section 143.786, RSMo

From Debt Offset Escrow Fund. 75,000E

Total. \$21,614,003

SECTION 3.155.— To Missouri Western State University

All Expenditures

From General Revenue Fund. \$19,229,453

From Lottery Proceeds Fund 1,968,039

For the payment of refunds set off against debt as required by Section 143.786, RSMo

From Debt Offset Escrow Fund. 75,000E

Total. \$21,272,492

SECTION 3.160.— To Harris-Stowe State University

All Expenditures

From General Revenue Fund. \$9,108,697

From Lottery Proceeds Fund 908,704

For the payment of refunds set off against debt as required by Section 143.786, RSMo

From Debt Offset Escrow Fund. 75,000E

Total. \$10,092,401

SECTION 3.165.— To the University of Missouri

For operation of its various campuses and programs

All Expenditures

From General Revenue Fund. \$376,121,593

From Lottery Proceeds Fund 36,869,596

For the payment of refunds set off against debt as required by Section 143.786, RSMo
From Debt Offset Escrow Fund. 200,000E
Total. \$413,191,189

SECTION 3.175.— To the University of Missouri - Columbia School of Medicine
For the purpose of funding the telemedicine program
From Healthy Families Trust Fund-Health Care Account. \$419,355

SECTION 3.180.— To the University of Missouri
For the Missouri Research and Education Network (MOREnet)
All Expenditures
From General Revenue Fund. \$10,254,612

SECTION 3.185.— To the University of Missouri
For the University of Missouri Hospital and Clinics
All Expenditures
From General Revenue Fund. \$13,185,079

SECTION 3.190.— To the University of Missouri
For the Missouri Rehabilitation Center
All Expenditures
From General Revenue Fund. \$10,401,691

SECTION 3.195.— To the University of Missouri
For a program of research into spinal cord injuries
All Expenditures
From Spinal Cord Injury Fund. \$400,000E

SECTION 3.200.— To the University of Missouri
For the Missouri Institute of Mental Health
All Expenditures
From General Revenue Fund. \$1,839,880

SECTION 3.205.— To the University of Missouri
For the treatment of renal disease in a statewide program
All Expenditures
From General Revenue Fund. \$4,016,774

SECTION 3.210.— To the University of Missouri
For the State Historical Society
All Expenditures
From General Revenue Fund. \$1,019,561

SECTION 3.215.— To the Board of Curators of the University of Missouri
For investment in registered federal, state, county, municipal, or school district
bonds as provided by law
From State Seminary Fund. \$3,000,000

SECTION 3.220.— To the Board of Curators of the University of Missouri
For use by the University of Missouri
From State Seminary Moneys Fund, Income from Investments. \$250,000

BILL TOTALS

General Revenue Fund.	\$889,356,731
Federal Funds.	6,468,111
Other Funds.	<u>182,792,028</u>
Total.	\$1,078,616,870

Approved June 21, 2006

HB 1004 [CCS SCS HCS HB 1004]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: Department of Revenue and Department of Transportation.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Revenue, Department of Transportation, Office of Administration, the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2006 and ending June 30, 2007.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the state treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2006 and ending June 30, 2007, as follows:

SECTION 4.005.— To the Department of Revenue

Personal Service and/or Expense and Equipment

From General Revenue Fund.	\$43,362,869
From Federal Funds.	6,404,905E
From Department of Revenue Information Fund.	592,619
From Petroleum Storage Tank Insurance Fund.	26,131
From Petroleum Inspection Fund.	33,631
From Health Initiatives Fund.	50,884
From Motor Vehicle Commission Fund.	1,069,111
From Child Support Enforcement Collections Fund.	2,622,814
From Conservation Commission Fund.	524,847
From Division of Aging Elderly Home Delivered Meals Trust Fund.	11,860
From State Highways and Transportation Department Fund.	11,369,932
From Department of Revenue Specialty Plate Fund.	5,080E

Annual salary adjustment in accordance with Section 105.005, RSMo

From General Revenue Fund.	3,039
From State Highways and Transportation Department Fund.	<u>1,090</u>
Total (Not to exceed 1,394.91 F.T.E.).	\$66,078,812

SECTION 4.007.— To the Department of Revenue

For the Office of Administration
 For the purpose of funding fuel and utilities
 Expense and Equipment
 From Lottery Enterprise Fund. \$123,254

SECTION 4.010.— To the Department of Revenue

For the Fiscal Services Division
 For postage
 Expense and Equipment
 From General Revenue Fund. \$2,843,200
 From Health Initiatives Fund 4,989
 From Motor Vehicle Commission Fund 40,843
 From Conservation Commission Fund. 1,247
 From Department of Revenue Information Fund. 185,137
 Total. \$3,075,416

SECTION 4.015.— To the Department of Revenue

For the State Tax Commission
 Personal Service and/or Expense and Equipment, provided that not more than
 twenty percent (20%) flexibility is allowed between each appropriation
 From General Revenue Fund. \$2,879,212

Annual salary adjustment in accordance with Section 105.005, RSMo
 From General Revenue Fund. 11,427

For the sole purpose of contracting with the Food and Agriculture Production
 Research Institute at the University of Missouri to develop a new formula to be
 used in the bi-annual calculation of the productive capability of agricultural and
 horticultural land
 From General Revenue Fund. 25,000
 Total (Not to exceed 60.75 F.T.E.). \$2,915,639

SECTION 4.020.— To the Department of Revenue

For payment of fees to counties as a result of delinquent collections made by circuit
 attorneys or prosecuting attorneys and payment of collection agency fees
 From General Revenue Fund. \$2,580,000E

SECTION 4.025.— To the Department of Revenue

For payment of fees to counties for the filing of lien notices and lien releases
 From General Revenue Fund. \$200,000

SECTION 4.030.— To the Department of Revenue

For the state's share of the costs and expenses incurred pursuant to an approved
 assessment and equalization maintenance plan as provided by Chapter 137,
 RSMo
 From General Revenue Fund. \$18,785,668

SECTION 4.035.— To the Department of Revenue

For state costs for county assessor and assessor-elect certification
 From General Revenue Fund. \$77,112

SECTION 4.040.— To the Department of Revenue

For distribution to the several counties and the city of St. Louis to offset property taxes for homestead preservation
 From General Revenue Fund. \$2,955,913

SECTION 4.045.— To the Department of Revenue

For distribution to cities and counties of all funds accruing to the Motor Fuel Tax Fund under the provisions of Sections 30(a) and 30(b), Article IV, Constitution of Missouri
 From Motor Fuel Tax Fund. \$188,000,000E

SECTION 4.050.— To the Department of Revenue

For refunds for overpayment or erroneous payment of any tax or any payment that is credited to the General Revenue Fund
 From General Revenue Fund. \$1,245,100,000E

SECTION 4.055.— To the Department of Revenue

For refunds for overpayment or erroneous payment of any tax or any payment credited to Federal and Other Funds
 From Federal and Other Funds. \$67,000E

SECTION 4.060.— To the Department of Revenue

For the purpose of refunding any tax or fee credited to the State Highways and Transportation Department Fund
 From State Highways and Transportation Department Fund. \$1,790,564E

SECTION 4.065.— To the Department of Revenue

For refunding any overpayment or erroneous payment of any amount credited to the Aviation Trust Fund
 From Aviation Trust Fund. \$157,927E

SECTION 4.070.— To the Department of Revenue

For refunds and distributions of motor fuel taxes
 From State Highways and Transportation Department Fund. \$10,414,000E

SECTION 4.075.— To the Department of Revenue

For refunds for overpayment or erroneous payment of any tax or any payment credited to the Workers' Compensation Fund
 From Workers' Compensation Fund. \$1,669,902E

SECTION 4.080.— To the Department of Revenue

For refunds for overpayment or erroneous payment of any tax or any payment credited to the Second Injury Fund
 From Second Injury Fund. \$248,966E

SECTION 4.085.— To the Department of Revenue

For refunds for overpayment or erroneous payment of any tax or any payment for tobacco taxes
 From Health Initiatives Fund. \$25,000E
 From State School Moneys Fund. 50,000E
 From Fair Share Fund 11,000E
 Total. \$86,000

SECTION 4.090.— To the Department of Revenue
For apportionments to the several counties and the city of St. Louis to offset credits
taken against the County Stock Insurance Tax
From General Revenue Fund. \$500,000E

SECTION 4.095.— To the Department of Revenue
For the payment of local sales tax delinquencies set off by tax credits
From General Revenue Fund. \$20,000E

SECTION 4.100.— There is transferred out of the state treasury, chargeable to the
General Revenue Fund, such amounts as may be necessary to make payments
of refunds set off against debts as required by Section 143.786, RSMo, to the
Debt Offset Escrow Fund
From General Revenue Fund. \$10,292,384

SECTION 4.102.— There is transferred out of the state treasury, chargeable to the
General Revenue Fund, such amounts as may be necessary to make payments
of refunds set off against debts as required by Section 488.020(3), RSMo, to
the Circuit Courts Escrow Fund
From General Revenue Fund. \$505,500

SECTION 4.105.— For the payment of refunds set off against debts as required by
Section 143.786, RSMo
From Debt Offset Escrow Fund. \$250,000E

SECTION 4.107.— For the payment of refunds set off against debts as required by
Section 488.020(3), RSMo
From Circuit Courts Escrow Fund. \$1E

SECTION 4.110.— Funds are to be transferred out of the state treasury, chargeable to the
School District Trust Fund, to the General Revenue Fund
From School District Trust Fund. \$2,500,000

SECTION 4.115.— There is transferred out of the state treasury, chargeable to the
Parks Sales Tax Fund, sixty-six hundredths percent of the funds received,
to the General Revenue Fund
From Parks Sales Tax Fund. \$240,000E

SECTION 4.120.— There is transferred out of the state treasury, chargeable to the
Soil and Water Sales Tax Fund, sixty-six hundredths percent of the funds
received, to the General Revenue Fund
From Soil and Water Sales Tax Fund. \$240,000E

SECTION 4.125.— There is transferred out of the state treasury, chargeable to the
General Revenue Fund, amounts from income tax refunds designated by
taxpayers for deposit in various income tax check-off funds
From General Revenue Fund. \$396,000E

SECTION 4.130.— There is transferred out of the state treasury, chargeable to
various income tax check-off funds, amounts from income tax refunds
erroneously deposited to said funds, to the General Revenue Fund
From Other Funds. \$13,669E

SECTION 4.135.— For distribution from the various income tax check-off charitable trust funds
 From Other Funds. \$31,500E

SECTION 4.140.— Funds are to be transferred out of the state treasury, chargeable to the Department of Revenue Information Fund, to the State Highways and Transportation Department Fund
 From Department of Revenue Information Fund. \$975,000E

SECTION 4.145.— Funds are to be transferred out of the state treasury, chargeable to the Motor Fuel Tax Fund, to the State Highways and Transportation Department Fund
 From Motor Fuel Tax Fund. \$560,178,001E

SECTION 4.150.— To the Department of Revenue
 For the State Lottery Commission
 For any and all expenditures, including operating, maintenance and repair, and minor renovations, necessary for the purpose of operating a state lottery, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation
 Personal Service. \$6,939,332
 Expense and Equipment 28,774,402E
 From Lottery Enterprise Fund (Not to exceed 173.50 F.T.E.). \$35,713,734

SECTION 4.155.— To the Department of Revenue
 For the State Lottery Commission
 For the payment of prizes
 From Lottery Enterprise Fund. \$80,000,000E

SECTION 4.160.— Funds are to be transferred out of the state treasury, chargeable to the Lottery Enterprise Fund, to the Lottery Proceeds Fund
 From Lottery Enterprise Fund. \$218,681,990

SECTION 4.200.— To the Department of Transportation
 For the Highways and Transportation Commission and Highway Program
 Administration
 Personal Service. \$21,173,992E
 Expense and Equipment. 6,594,940E
 From State Road Fund 27,768,932

For Administration fringe benefits
 Personal Service. 8,814,968E
 Expense and Equipment 12,308,818E
 From State Road Fund. 21,123,786
 Total (Not to exceed 452.75 F.T.E.). \$48,892,718

SECTION 4.205.— To the Department of Transportation
 For the Construction Program
 To pay the costs of reimbursing counties and other political subdivisions for the acquisition of roads and bridges taken over by the state as permanent parts of the state highway system, and for the costs of locating, relocating, establishing,

acquiring, constructing, reconstructing, widening, and improving those highways, bridges, tunnels, parkways, travelways, tourways, and coordinated facilities authorized under Article IV, Section 30(b) of the Constitution of Missouri; of acquiring materials, equipment, and buildings necessary for such purposes and for other purposes and contingencies relating to the location and construction of highways and bridges; and to receive funds from the United States government for like purposes

Personal Service.	\$87,881,951E
Expense and Equipment	24,558,021E
Construction.	<u>1,625,451,000E</u>
From State Road Fund	1,737,890,972

For all expenditures associated with refunding outstanding state road bond debt

From State Road Fund	109,525,000E
From State Road Bond Fund.	64,983,000E

For Construction Program fringe benefits

Personal Service.	38,147,494E
Expense and Equipment.	<u>1,082,857E</u>
From State Road Fund.	39,230,351
Total (Not to exceed 1,939.00 F.T.E.).	\$1,951,629,323

SECTION 4.210. — To the Department of Transportation

For the Federal Transportation Enhancements Program

From State Road Fund.	\$20,000,000E
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SECTION 4.215. — To the Department of Transportation

For the Maintenance Program

To pay the costs of preserving and maintaining the state system of roads and bridges and coordinated facilities authorized under Article IV, Section 30(b) of the Constitution of Missouri; of acquiring materials, equipment, and buildings necessary for such purposes and for other purposes and contingencies related to the preservation, maintenance, and safety of highways and bridges

Personal Service.	\$336,038E
Expense and Equipment.	<u>50,000</u>
From Federal Funds	386,038

Personal Service.	141,947,588E
Expense and Equipment	<u>182,231,860E</u>
From State Road Fund	324,179,448

Expense and Equipment	
From Motorcycle Safety Trust Fund.	325,000E

For Maintenance Program fringe benefits

Personal Service.	49,715E
Expense and Equipment.	<u>1,603E</u>
From Federal Funds	51,318

Personal Service.	67,059,097E
Expense and Equipment	<u>10,330,249E</u>
From State Road Fund	77,389,346

For all allotments, grants, and contributions from federal sources that may be deposited
in the state treasury for grants of National Highway Safety Act moneys
From Federal Funds 16,054,000E

For the Motor Carrier Safety Assistance Program
From Federal Funds 1,115,000E

For the Safe Routes to School Program
From State Road Fund. 2,000,000E
Total (Not to exceed 4,029.20 F.T.E.). \$421,500,150

SECTION 4.220. — To the Department of Transportation

For the purpose of refunding any fee credited to the Department of Transportation

Bridge and Highway Sign Fund

From Department of Transportation Bridge and Highway Sign Fund. \$1E

SECTION 4.225. — Funds are to be transferred out of the state treasury, chargeable to
the Department of Transportation Bridge and Highway Sign Fund, to the State
Highways and Transportation Department Fund

From Department of Transportation Bridge and Highway Sign Fund. \$1E

SECTION 4.230. — To the Department of Transportation

For the Motor Carriers Service Program

Personal Service. \$3,809,455E

Expense and Equipment 2,136,019E

From State Road Fund 5,945,474

For Motor Carriers Service fringe benefits

Personal Service. 1,131,359E

Expense and Equipment. 15,006E

From State Road Fund. 1,146,365

Total (Not to exceed 109.00 F.T.E.). \$7,091,839

SECTION 4.235. — Funds are to be transferred out of the state treasury, chargeable
to Federal Funds, to the State Highways and Transportation Department Fund

From Federal Funds. \$65,000

SECTION 4.240. — To the Department of Transportation

For the Motorist Assistance Program

Personal Service. \$1,905,814E

Expense and Equipment. 386,036E

From State Road Fund. 2,291,850

For Motorist Assistance fringe benefits

Personal Service. 893,649E

Expense and Equipment. 158,460E

From State Road Fund. 1,052,109

Total (Not to exceed 53.00 F.T.E.). \$3,343,959

***SECTION 4.243.** — To the Department of Transportation

For Mississippi River Parkway

From State Highways and Transportation Department Fund. \$25,000

*I hereby veto \$25,000 State Highways and Transportation Department Fund for the Mississippi River Parkway Commission. Section 226.445, RSMo directs that expenses of commission members shall be reimbursed from appropriations of general revenue. This appropriation is in conflict with that statute.

Said section is vetoed in its entirety by \$25,000 to \$0 from State Highways and Transportation Department Fund.

From \$25,000 to \$0 in total for this section.

MATT BLUNT, GOVERNOR

SECTION 4.245.— To the Department of Transportation
For Fleet, Facilities, and Information Systems

To pay the costs of constructing, preserving, and maintaining the state system of roads and bridges and coordinated facilities authorized under Article IV, Section 30(b) of the Constitution of Missouri; of acquiring materials, equipment, and buildings necessary for such purposes and for other purposes and contingencies related to the construction, preservation, and maintenance of highways and bridges

Personal Service.	\$16,073,999E
Expense and Equipment	<u>87,284,871E</u>
From State Road Fund	103,358,870

For Fleet, Facilities, and Information Systems fringe benefits

Personal Service.	7,132,995E
Expense and Equipment.	<u>264,727E</u>

From State Road Fund.	<u>7,397,722</u>
Total (Not to exceed 387.00 F.T.E.).	\$110,756,592

SECTION 4.250.— To the Department of Transportation

For the purpose of refunding any tax or fee credited to the State Highways and Transportation Department Fund

From State Highways and Transportation Department Fund. \$800,000E

For refunds and distributions of motor fuel taxes

From State Highways and Transportation Department Fund	<u>30,000,000E</u>
Total.	\$30,800,000

SECTION 4.255.— Funds are to be transferred out of the state treasury, chargeable to the State Highways and Transportation Fund, to the State Road Fund

From State Highways and Transportation Department Fund. \$550,000,000E

SECTION 4.260.— To the Department of Transportation

For Multimodal Operations Administration

Personal Service	\$455,087
Expense and Equipment.	<u>400,000</u>
From Federal Funds	855,087

Personal Service.....	299,255E
Expense and Equipment.....	<u>19,897E</u>
From State Road Fund	319,152

Personal Service.....	402,702
Expense and Equipment.....	<u>151,421</u>
From Railroad Expense Fund	554,123

Personal Service	140,171
Expense and Equipment.....	<u>10,395</u>
From State Transportation Fund	150,566

Personal Service.....	425,710
Expense and Equipment.....	<u>24,827</u>
From Aviation Trust Fund	450,537

For Multimodal Operations fringe benefits

Personal Service	
From Federal Funds	193,467E
From State Road Fund	104,196E
From Railroad Expense Fund	103,318E
From State Transportation Fund	38,236E
From Aviation Trust Fund.....	<u>175,740E</u>
Total (Not to exceed 36.00 F.T.E.).....	\$2,944,422

SECTION 4.265. — To the Department of Transportation

For Multimodal Operations

For reimbursements to the State Road Fund for providing professional and technical services and administrative support of multimodal program

From Federal Funds.....	\$71,500
From Railroad Expense Fund	102,532
From State Transportation Fund	50,951
From Aviation Trust Fund.....	<u>67,067</u>
Total.....	\$292,050

SECTION 4.270. — To the Department of Transportation

For Multimodal Operations

For loans from the State Transportation Assistance Revolving Fund to political subdivisions of the state or to public or private not-for-profit organizations or entities in accordance with Section 226.191, RSMo

From State Transportation Assistance Revolving Fund.....	\$550,000E
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SECTION 4.275. — To the Department of Transportation

For the Transit Program

For distributing funds to urban, small urban, and rural transportation systems

From General Revenue Fund.....	\$4,015,589
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For rural transit programs

From State Transportation Fund.....	<u>250,000</u>
Total.....	\$4,265,589

SECTION 4.280. — To the Department of Transportation

For the Transit Program

For locally matched capital improvement grants under Section 5310, Title 49,
United States Code to assist private, non-profit organizations in improving
public transportation for the state's elderly and people with disabilities

From Federal Funds. \$2,052,292E

For New Freedom Transit Program

From Federal Funds. 300,000E

Total. \$2,352,292

SECTION 4.285. — To the Department of Transportation

For the Transit Program

For an operating subsidy for not-for-profit transporters of the elderly, people with
disabilities, and low-income individuals

From General Revenue Fund. \$2,343,732

From State Transportation Fund. 600,000

Total. \$2,943,732

SECTION 4.290. — To the Department of Transportation

For the Transit Program

For grants to urban areas under Section 5307, Title 49, United States Code

From Federal Funds. \$1E

SECTION 4.295. — To the Department of Transportation

For the Transit Program

For locally matched grants to small urban and rural areas under Section 5311,
Title 49, United States Code

From Federal and Local Funds. \$7,672,678E

For the Job Access and Reverse Commute Grants Program

From Federal Funds. 500,000

Total. \$8,172,678

SECTION 4.300. — To the Department of Transportation

For the Transit Program

For grants under Section 5309, Title 49, United States Code to assist private,
non-profit organizations providing public transportation services

From Federal Funds. \$8,000,000E

SECTION 4.305. — To the Department of Transportation

For the Transit Program

For grants to metropolitan areas under Section 5305, Title 49, United States Code

From Federal Funds. \$5,500,000E

SECTION 4.310. — To the Department of Transportation

For the Rail Program

For grants under Section 5 of the Department of Transportation Act, as amended by
the reauthorizing act, for acquisition, rehabilitation, improvement, or rail facility
construction assistance

From Federal Funds. \$1E

For grants to study the feasibility of high speed rail service

From Federal Funds	<u>1E</u>
Total.	\$2

SECTION 4.315.— To the Department of Transportation
For the Light Rail Safety Program

From Light Rail Safety Fund. \$1E

SECTION 4.320.— To the Department of Transportation
For the Rail Program

For passenger rail service in Missouri

From General Revenue Fund. \$5,500,000

From State Transportation Fund. 1,100,000

Total. \$6,600,000

SECTION 4.325.— To the Department of Transportation

For station repairs and improvements at Missouri Amtrak stations

From State Transportation Fund. \$25,000

SECTION 4.330.— To the Department of Transportation

For protection of the public against hazards existing at railroad crossings pursuant
to Chapter 389, RSMo

From Grade Crossing Safety Account. \$1,500,000E

SECTION 4.335.— Funds are to be transferred out of the state treasury, chargeable to
the Grade Crossing Safety Account, to the Railroad Expense Fund

From Grade Crossing Safety Account. \$100,000

SECTION 4.340.— To the Department of Transportation

For the Aviation Program

For construction, capital improvements, and maintenance of publicly owned airfields,
including land acquisition, and for printing charts and directories

From Aviation Trust Fund. \$3,500,000E

SECTION 4.345.— To the Department of Transportation

For the Aviation Program

For construction, capital improvements, or planning of publicly owned airfields by
cities or other political subdivisions, including land acquisition, pursuant to the
provisions of the State Block Grant Program administered through the Federal
Airport Improvement Program

From Federal Funds. \$11,000,000E

SECTION 4.350.— To the Department of Transportation

For the Waterways Program

For grants to port authorities for assistance in port planning, acquisition, or
construction within the port districts

From State Transportation Fund. \$450,000

For ferryboat operation grants

From State Road Fund 150,000E

Total. \$600,000

DEPARTMENT OF REVENUE TOTALS

General Revenue Fund.	\$85,437,324
Federal Funds.	6,404,905
Other Funds.	<u>320,377,203</u>
Total.	\$412,219,432

DEPARTMENT OF TRANSPORTATION TOTALS

General Revenue Fund.	\$11,859,321
Federal Funds.	53,751,383
Other Funds.	<u>2,555,874,644</u>
Total.	\$2,621,485,348

Approved June 29, 2006

HB 1005 [CCS SCS HCS HB 1005]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

**APPROPRIATIONS: OFFICE OF ADMINISTRATION, DEPARTMENT OF TRANSPORTATION,
DEPARTMENT OF PUBLIC SAFETY, AND CHIEF EXECUTIVES OFFICE.**

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Office of Administration, the Department of Transportation, the Department of Public Safety, and the Chief Executive's Office, and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2006 and ending June 30, 2007.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2006 and ending June 30, 2007, as follows:

SECTION 5.005. — To the Office of Administration

For the Commissioner's Office

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation.	\$1,286,805
Annual salary adjustment in accordance with Section 105.005, RSMo.	<u>4,494</u>
From General Revenue Fund (Not to exceed 21.10 F.T.E.).	\$1,291,299

SECTION 5.010. — To the Office of Administration

For the Division of Accounting

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation	
From General Revenue Fund (Not to exceed 53.00 F.T.E.).	\$2,280,247

SECTION 5.015.— To the Office of Administration

For the Division of Budget and Planning

Personal Service and/or Expense and Equipment, provided that not more
than twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund (Not to exceed 29.00 F.T.E.). \$1,703,305

SECTION 5.020.— To the Office of Administration

For the Division of Budget and Planning

For research and development activities

From General Revenue Fund. \$15,495

From Federal Funds. 50,000

Total. \$65,495

SECTION 5.025.— To the Office of Administration

For the Division of Budget and Planning

For the purpose of payment of contracts for maximization of reimbursements
to the state

From General Revenue Fund. \$1E

SECTION 5.030.— To the Office of Administration

For the Information Technology Services Division

Personal Service and/or Expense and Equipment, provided that not more
than twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund. \$6,381,626

From Office of Administration Revolving Administrative Trust Fund. 29,207,729

For the Justice Integration Project and Federal Integration Program

Expense and Equipment

From Federal Funds 987,598

For the State Security Office

Personal Service. 75,281

Expense and Equipment. 13,500

From Federal Funds 88,781

For Federal Programs Spending Authority

Personal Service. 92,618

Expense and Equipment. 3,856,331

From Federal Funds 3,948,949

Personal Service. 1E

Expense and Equipment. 1E

From Other Funds 2

For administration of information systems personnel and resources by the

Information Technology Services Division, provided that not more than fifty
percent (50%) flexibility is allowed between each appropriation

From General Revenue Fund. 677,456

From Federal Funds 4,382

From Other Funds. 320,276

Total (Not to exceed 192.25 F.T.E.). \$41,616,799

SECTION 5.035.— To the Office of Administration

For the Information Technology Services Division

For administration of information systems personnel and resources by the

Information Technology Services Division, provided that not more than
fifty percent (50%) flexibility is allowed between each appropriation

From General Revenue Fund.	\$48,849,425
From Federal Funds	67,563,303
From Other Funds.	<u>22,012,093</u>
Total (Not to exceed 1,015.04 F.T.E.).	\$138,424,821

SECTION 5.040.— To the Office of Administration

For the Information Technology Services Division

For the centralized telephone billing system

Expense and Equipment

From Office of Administration Revolving Administrative Trust Fund. \$30,005,000E

SECTION 5.045.— To the Office of Administration

For the Division of Personnel

Personal Service and/or Expense and Equipment, provided that not more
than twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund. \$2,326,838

Personal Service. 64,846

Expense and Equipment. 315,716From Office of Administration Revolving Administrative Trust Fund. 380,562

Total (Not to exceed 58.97 F.T.E.). \$2,707,400

SECTION 5.050.— To the Office of Administration

For the Division of Personnel

For employee suggestion awards

From Office of Administration Revolving Administrative Trust Fund. \$1E

SECTION 5.055.— To the Office of Administration

For the Division of Purchasing and Materials Management

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund (Not to exceed 35.00 F.T.E.). \$1,654,917

SECTION 5.060.— To the Office of Administration

For the Division of Purchasing and Materials Management

For refunding bid and performance bonds

From Office of Administration Revolving Administrative Trust Fund. \$2,112,000E

SECTION 5.065.— To the Office of Administration

For the Division of Purchasing and Materials Management

For operation of the State Agency for Surplus Property

Personal Service. \$824,722

Expense and Equipment 741,638

Fixed Price Vehicle Program. 800,000E

From Federal Surplus Property Fund (Not to exceed 23.50 F.T.E.). \$2,366,360

SECTION 5.070.— To the Office of Administration

For the Division of Purchasing and Materials Management
 For Surplus Property recycling activities
 From Federal Surplus Property Fund. \$41,610E

SECTION 5.075.— There is transferred out of the State Treasury, chargeable to the
 Federal Surplus Property Fund, to the Department of Social Services for the
 heating assistance program, as provided by Section 34.052, RSMo.
 From Federal Surplus Property Fund. \$20,000E

SECTION 5.080.— To the Office of Administration
 For the Division of Purchasing and Materials Management
 For the disbursement of surplus property sales receipts
 From Proceeds of Surplus Property Sales Fund. \$48,800E

SECTION 5.085.— There is transferred out of the State Treasury, chargeable to
 the Proceeds of Surplus Property Sales Fund, to various state agency funds
 From Proceeds of Surplus Property Sales Fund. \$1,041,200E

SECTION 5.090.— To the Office of Administration
 For the Division of Facilities Management, Design and Construction Asset
 Management
 For authority to spend donated funds to support renovations and operations of
 the Governor's Mansion
 From State Facility Maintenance and Operation Fund. \$30,000

SECTION 5.095.— To the Office of Administration
 For the Division of Facilities Management, Design and Construction Asset
 Management
 For any and all expenditures necessary for the purpose of funding the operations
 of the Board of Public Buildings, state-owned and leased office buildings,
 laboratories, and support facilities
 Personal Service and/or Expense and Equipment, provided that not more than
 one hundred percent (100%) flexibility is allowed between each appropriation
 From State Facility Maintenance and Operation Fund (Not to exceed
 254.69 F.T.E.). \$24,929,388

SECTION 5.100.— To the Office of Administration
 For the Division of Facilities Management, Design and Construction Asset
 Management
 For annual payment for guaranteed energy cost savings contracts
 From Office of Administration Revolving Administrative Trust Fund. \$1E

SECTION 5.105.— To the Office of Administration
 For the Division of Facilities Management, Design and Construction Asset
 Management
 For operational maintenance and repairs for state-owned facilities
 From Facilities Maintenance Reserve Fund. \$246,672
 From State Facility Maintenance and Operation Fund. 485,771
 Total. \$732,443

SECTION 5.110.— To the Office of Administration
 For the Division of Facilities Management, Design and Construction Asset

Management
 For the purpose of funding expenditures associated with the Second State Capitol
 Commission
 Expense and Equipment
 From Second State Capitol Commission Fund. \$25,000E

SECTION 5.115.— To the Board of Public Buildings
 For the Office of Administration
 For the Division of Facilities Management, Design and Construction Asset
 Management
 For modifications and other support services at state-owned facilities
 From State Facility Maintenance and Operation Fund. \$708,871E

SECTION 5.120.— To the Office of Administration
 For the Division of General Services
 Personal Service and/or Expense and Equipment, provided that not more
 than twenty percent (20%) flexibility is allowed between each appropriation.
 In addition, the Division of General Services will each year review the
 vehicles available for purchase on the state contract with regards to fuel
 efficiency and adjust available options as necessary to annually increase the
 fuel efficiency of the state fleet. In addition to the mail services plan, the
 division shall also submit a plan to consolidate statewide print shop operations
 to the Chairman of the Senate Appropriations Committee and House Budget
 Committee prior to December 31, 2006
 From General Revenue Fund.. . . . \$1,005,213

Personal Service.	1,900,788
Expense and Equipment.	1,089,728
From Office of Administration Revolving Administrative Trust Fund.	2,990,516
Total (Not to exceed 85.50 F.T.E.).	\$3,995,729

SECTION 5.125.— There is transferred out of the State Treasury, chargeable to the
 General Revenue Fund, to the State Property Preservation Fund
 From General Revenue Fund.. . . . \$1E

SECTION 5.130.— To the Office of Administration
 For the Division of General Services
 For the repair or replacement of state-owned or leased facilities that have suffered
 damage from natural or man-made events or for the defeasance of outstanding
 debt secured by the damaged facilities when a notice of coverage has been
 issued by the Commissioner of Administration, as provided by Sections 37.410
 through 37.413, RSMo
 From State Property Preservation Fund.. . . . \$1E

SECTION 5.135.— To the Office of Administration
 For the Division of General Services
 For reimbursable expenses and for the replacement or repair of damaged equipment
 when recovery is obtained from a third party
 Expense and Equipment
 From Office of Administration Revolving Administrative Trust Fund. \$5,000,000E

SECTION 5.140.— There is transferred out of the State Treasury, chargeable to

the funds shown below, for the payment of claims, premiums, and expenses as provided by Sections 105.711 through 105.726, RSMo, the following amounts to the State Legal Expense Fund	
From General Revenue Fund.	\$6,000,000E
From Office of Administration Revolving Administrative Trust Fund.	25,000E
From Conservation Commission Fund.	130,000E
From State Highways and Transportation Department Fund	600,000E
From Other Sources.	<u>2,435E</u>
Total.	\$6,757,435

SECTION 5.145. — To the Office of Administration

For the Division of General Services

For the payment of claims and expenses as provided by Section 105.711 et seq.,
RSMo, and for purchasing insurance against any or all liability of the State of
Missouri or any agency, officer, or employee thereof

From State Legal Expense Fund.	\$6,757,435E
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SECTION 5.150. — To the Office of Administration

For the Administrative Hearing Commission

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation. . . . \$925,969
Annual salary adjustment in accordance with Section 105.005, RSMo. 11,139

From General Revenue Fund (Not to exceed 16.00 F.T.E.).	\$937,108
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SECTION 5.155. — To the Office of Administration

For the purpose of funding the Office of Child Advocate

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.	\$167,008
From Federal Funds.	<u>133,915</u>
Total (Not to exceed 4.00 F.T.E.).	\$300,923

SECTION 5.160. — To the Office of Administration

For the administrative, promotional, and programmatic costs of the Children's

Trust Fund Board as provided by Section 210.173, RSMo

Personal Service. \$199,077
Expense and Equipment 145,140

For Program Disbursements.	<u>3,360,000E</u>
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From Children's Trust Fund (Not to exceed 5.00 F.T.E.).	\$3,704,217
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SECTION 5.163. — To the Office of Administration

For the Governor's Council on Disability

Personal Service and/or Expense and Equipment, provided that not more
than twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.	\$202,980
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For the purpose of funding expenditures associated with the annual Youth
Leadership Forum

Expense and Equipment

From Office of Administration Revolving Administrative Trust Fund.	<u>30,000</u>
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Total (Not to exceed 4.00 F.T.E.).	\$232,980
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SECTION 5.165.— To the Office of Administration

For those services provided through the Office of Administration that are contracted with and reimbursed by the Board of Trustees of the Missouri Public Entity Risk Management Fund as provided by Chapter 537, RSMo

Personal Service.	\$608,132
Expense and Equipment.	61,847
From Office of Administration Revolving Administrative Trust Fund (Not to exceed 16.00 F.T.E.).	\$669,979

SECTION 5.175.— To the Office of Administration

For the Missouri Ethics Commission

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund (Not to exceed 20.00 F.T.E.). \$1,162,669

SECTION 5.180.— To the Office of Administration

For the Division of Accounting

For payment of rent by the state for state agencies occupying Board of Public Buildings revenue bond financed buildings. Funds are to be used for principal, interest, bond issuance costs, and reserve fund requirements of Board of Public Buildings bonds

From General Revenue Fund. \$54,758,283

SECTION 5.190.— To the Office of Administration

For the Division of Accounting

For annual fees, arbitrage rebate, refunding, defeasance, and related expenses of House Bill 1005 debt

From General Revenue Fund. \$30,654E

SECTION 5.195.— To the Office of Administration

For the Division of Accounting

For payment of Board of Public Buildings debt service and all related expenses associated with the Series A 2006 women's prison bonds

From General Revenue Fund. \$1E

SECTION 5.200.— To the Office of Administration

For the Division of Accounting

For payment of the state's lease/purchase debt requirements

From General Revenue Fund. \$13,182,113

SECTION 5.210.— There is transferred out of the State Treasury, chargeable to the Special Employment Security Fund, to the Special Employment Security Fund-Principal and Interest Fund for payments of principal and interest on any debt issued by the Board of Unemployment Fund Financing

From Special Employment Security Fund. \$1E

SECTION 5.215.— To the Office of Administration

For payment of principal and interest on any debt issued by the Board of Unemployment Fund Financing

From Special Employment Security-Principal and Interest Fund. \$1E

SECTION 5.220.— To the Office of Administration

For payment of a financial advisor, bond counsel, rating agency, and other fees
associated with cost of issuance and ongoing expenses of Board of

Unemployment Fund Financing debt

From Special Employment Security Fund-Bond Proceeds Fund. \$1E

From Special Employment Security Fund. 1E

Total. \$2

SECTION 5.225.— To the Office of Administration

For MOHEFA debt service and all related expenses associated with the Series 2001

MU-Columbia Arena project bonds

From General Revenue Fund. \$2,879,838

SECTION 5.230.— To the Office of Administration

For debt service and all related bond expenses for the Agricultural Building at

Missouri State University provided, however, that no bonds shall be issued or

debt service paid without the prior approval of the Commissioner of the Office

of Administration, the Chair of the Senate Appropriations Committee, and the

Chair of the House Budget Committee

From General Revenue Fund. \$1

SECTION 5.235.— To the Office of Administration

For the Division of Accounting

For Debt Management

Expense and Equipment

From General Revenue Fund. \$150,000

SECTION 5.240.— To the Office of Administration

For the Division of Accounting

For debt service contingency for the New Jobs Training Certificates Program

From General Revenue Fund. \$1E

SECTION 5.245.— To the Office of Administration

For the Division of Accounting

For the Bartle Hall Convention Center expansion, operations, development, or

maintenance in Kansas City pursuant to Sections 67.638 through 67.641, RSMo

From General Revenue Fund. \$2,000,000

SECTION 5.250.— To the Office of Administration

For the Division of Accounting

For the maintenance of the Jackson County Sports Complex pursuant to Sections

67.638 through 67.641, RSMo

From General Revenue Fund. \$3,000,000

SECTION 5.255.— To the Office of Administration

For the Division of Accounting

For the expansion of the dual-purpose Edward Jones Dome project in St. Louis

From General Revenue Fund. \$12,000,000

SECTION 5.260.— To the Office of Administration

For the Division of Accounting

For interest payments on federal grant monies in accordance with the Cash Manage-

ment Improvement Act of 1990 and 1992, and any other interest or penalties
due to the federal government
From General Revenue Fund. \$400,000E

SECTION 5.265. — To the Office of Administration

For the Division of Accounting
For audit recovery distribution
From General Revenue Fund. \$350,000E

SECTION 5.270. — To the Office of Administration

For the Division of Accounting
For payment to county sheriffs for reimbursement of expenses incurred to process
applications for concealed carry endorsements or renewals in excess of the
maximum fee permitted by law, pursuant to Section 50.535, RSMo
From General Revenue Fund. \$1

SECTION 5.275. — There is transferred out of the State Treasury,

chargeable to the General Revenue Fund for the statewide operational maintenance
and repair appropriations, to the Facilities Maintenance and Reserve Fund
From General Revenue Fund. \$3,519,322

SECTION 5.280. — There is transferred out of the State Treasury, chargeable to the
Budget Reserve Fund and Other Funds, such amounts as may be necessary for
cash-flow assistance to various funds, provided, however, that funds other than
the Budget Reserve Fund will not be used without prior notification to the
Commissioner of the Office of Administration, the State Treasurer, the Chair
of the Senate Appropriations Committee, and the Chair of the House Budget
Committee. Cash-flow assistance from funds other than the Budget Reserve
Fund shall only be transferred from May 15 to June 30 in any fiscal year, and
an amount equal to the transfer received, plus interest, shall be transferred back
to the appropriate Other Fund prior to June 30 of the fiscal year in which the
transfer was made

From Budget Reserve Fund and Other Funds to General Revenue Fund. . . \$325,000,000E
From Budget Reserve Fund to Other Funds. 75,000,000E
Total. \$400,000,000

SECTION 5.285. — There is transferred out of the State Treasury, such amounts as
may be necessary for repayment of cash-flow assistance to the Budget
Reserve Fund and Other Funds, provided, however, that the Commissioner
of the Office of Administration, the State Treasurer, the Chair of the Senate
Appropriations Committee, and the Chair of the House Budget Committee
shall be notified when repayment to funds, other than the Budget Reserve
Fund, has been made

From General Revenue Fund. \$325,000,000E
From Other Funds. 75,000,000E
Total. \$400,000,000

SECTION 5.290. — There is transferred out of the State Treasury, such amounts
as may be necessary for interest payments on cash-flow assistance, to the
Budget Reserve Fund and Other Funds

From General Revenue Fund. \$3,000,000E

From Other Funds.....	1E
Total.	\$3,000,001

SECTION 5.295.— There is transferred out of the State Treasury, such amounts as may be necessary for constitutional requirements of the Budget Reserve Fund

From General Revenue Fund.	\$1E
From Budget Reserve Fund ..	1E
Total.	\$2

SECTION 5.300.— There is transferred out of the State Treasury, such amounts as may be necessary for corrections to fund balances

From General Revenue Fund.	\$1E
From Other Funds ..	1E
Total.	\$2

SECTION 5.305.— There is transferred out of the State Treasury, such amounts as may be necessary for the movement of cash between funds

From any fund except General Revenue Fund.	\$1E
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SECTION 5.310.— There is transferred out of the State Treasury, chargeable to the Healthy Families Trust Fund, to the General Revenue Fund

From Healthy Families Trust Fund.	\$45,609,865E
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SECTION 5.315.— There is transferred out of the State Treasury, chargeable to the Healthy Families Trust Fund, to the Healthy Families Trust Fund-Health Care Account

From Healthy Families Trust Fund.	\$53,462,087
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SECTION 5.320.— There is transferred out of the State Treasury, chargeable to the Healthy Families Trust Fund, to the Healthy Families Trust Fund-Tobacco Prevention Account

From Healthy Families Trust Fund.	\$495,623
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SECTION 5.325.— There is transferred out of the State Treasury, chargeable to the Healthy Families Trust Fund, to the Missouri Rx Plan Fund

From Healthy Families Trust Fund.	\$13,820,394
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SECTION 5.330.— There is transferred out of the State Treasury, chargeable to various funds such amounts as are necessary for allocation of costs to other funds in support of the state's central services performed by the Office of Administration, the Department of Revenue, the Capitol Police, the Elected Officials, and the General Assembly, to the General Revenue Fund, provided that no transfers shall be made from funds established to account for donations resulting from MOHELA asset sales

From Other Funds.....	\$16,215,535E
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SECTION 5.335.— There is transferred out of the State Treasury, chargeable to the Office of Administration Revolving Administrative Trust Fund, to the General Revenue Fund

From Office of Administration Revolving Administrative Trust Fund.	\$1E
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SECTION 5.340.— There is transferred out of the State Treasury, chargeable to the Office of Administration Revolving Administrative Trust Fund, to the State Facility Maintenance and Operation Fund
 From Office of Administration Revolving Administrative Trust Fund. \$516,464E

SECTION 5.345.— To the Office of Administration
 For the Division of Accounting
 For paying the several counties of Missouri the amount that has been paid into the State Treasury by the United States Treasury as a refund from the leases of flood control lands, under the provisions of an Act of Congress approved June 28, 1938, to be distributed to certain counties in Missouri in accordance with the provisions of state law
 From Federal Funds. \$865,000E

SECTION 5.350.— To the Office of Administration
 For the Division of Accounting
 For paying the several counties of Missouri the amount that has been paid into the State Treasury by the United States Treasury as a refund from the National Forest Reserve, under the provisions of an Act of Congress approved June 28, 1938, to be distributed to certain counties in Missouri
 From Federal Funds. \$2,415,000E

SECTION 5.352.— There is transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Missouri Water Development Fund
 From General Revenue. \$550,000

SECTION 5.353.— To the Office of Administration
 For the Division of Accounting
 For the payment of interest, operations, and maintenance in accordance with the Cannon Water Contract
 From the Missouri Water Development Fund. \$550,000

SECTION 5.355.— To the Office of Administration
 For the Division of Accounting
 For payments to counties for county correctional prosecution reimbursements pursuant to Sections 50.850 and 50.853, RSMo
 From General Revenue Fund. \$15,000E

SECTION 5.360.— To the Office of Administration
 For the Commissioner's Office
 For distribution of state grants to regional planning commissions and local governments as provided by Chapter 251, RSMo
 From General Revenue Fund. \$200,000

SECTION 5.365.— To the Office of Administration
 For the Commissioner's Office
 For federal grants to support the efforts of the Missouri Commission on Intergovernmental Cooperation provided that the General Assembly shall be notified, in writing, of the source of funds and the purpose for which they shall be expended prior to the use of said funds
 From Federal Funds. \$250,000

SECTION 5.370.— To the Office of Administration

For funding transition costs for the State Auditor as provided in Section 29.400, RSMo

From General Revenue Fund. \$10,000

SECTION 5.450.— To the Office of Administration

For transferring funds for all state employees and participating political subdivisions to the OASDHI Contributions Fund

From General Revenue Fund. \$76,731,530E

From Federal Funds 28,805,000E

From Other Sources. 45,028,000E

Total. \$150,564,530

SECTION 5.455.— For the Department of Public Safety

For transferring funds for employees of the State Highway Patrol to the OASDHI Contributions Fund, said transfers to be administered by the Office of Administration

From State Highways and Transportation Department Fund. \$6,820,000E

SECTION 5.460.— To the Office of Administration

For the Division of Accounting

For the payment of OASDHI taxes for all state employees and for participating political subdivisions within the state to the Treasurer of the United States for compliance with current provisions of Title 2 of the Federal Social Security Act, as amended, in accordance with the agreement between the State Social Security Administrator and the Secretary of the Department of Health and Human Services; and for administration of the agreement under Section 218 of the Social Security Act which extends Social Security benefits to state and local public employees

From OASDHI Contributions Fund. \$157,384,530E

SECTION 5.465.— To the Office of Administration

For transferring funds for the state's contribution to the Missouri State Employees' Retirement System to the State Retirement Contributions Fund

From General Revenue Fund. \$162,348,595E

From Federal Funds 51,367,000E

From Other Sources. 42,074,000E

Total. \$255,789,595

SECTION 5.470.— To the Office of Administration

For the Division of Accounting

For payment of the state's contribution to the Missouri State Employees' Retirement System

From State Retirement Contributions Fund. \$255,789,595E

SECTION 5.475.— To the Office of Administration

For the Division of Accounting

For payment of retirement benefits to the Public School Retirement System pursuant to Section 104.342, RSMo

From General Revenue Fund. \$2,400,000E

From Federal Funds 1,070,000E

From Other Funds. 70,560ETotal. \$3,540,560

SECTION 5.480.— To the Office of Administration

For transferring funds for all state employees who are qualified participants in the state Deferred Compensation Plan in accordance with Section 105.927, RSMo, and pursuant to Section 401(a) of the Internal Revenue Code to the Missouri State Employees' Deferred Compensation Incentive Plan Administration Fund

From General Revenue Fund.....	\$5,620,515E
From Federal Funds	2,274,419E
From Other Sources.	<u>3,116,951E</u>
Total.	\$11,011,885

SECTION 5.485.— For the Department of Public Safety

For transferring funds for the state's contribution to the Missouri State Employees' Deferred Compensation Incentive Plan Administration Fund for employees of the State Highway Patrol, said transfers to be administered by the Office of Administration

From State Highways and Transportation Department Fund.	\$557,000E
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SECTION 5.490.— To the Office of Administration

For the Division of Accounting

For the payment of funds credited by the state at a maximum rate of \$25 per month per qualified participant in accordance with Section 105.927, RSMo, to deferred compensation investment companies

From Missouri State Employees' Deferred Compensation Incentive Plan Administration Fund.	\$11,568,885E
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SECTION 5.495.— To the Office of Administration

For the Division of Accounting

For reimbursing the Division of Employment Security benefit account for claims paid to former state employees for unemployment insurance coverage and for related professional services

From General Revenue Fund.....	\$1,700,096E
From Federal Funds	489,700E
From Other Funds	<u>1,679,812E</u>
Total.	\$3,869,608

SECTION 5.500.— To the Office of Administration

For the Division of Accounting

For reimbursing the Division of Employment Security benefit account for claims paid to former state employees of the Department of Public Safety for unemployment insurance coverage and for related professional services

From State Highways and Transportation Department Fund.	\$170,000E
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SECTION 5.505.— To the Office of Administration

For transferring funds for the state's contribution to the Missouri Consolidated Health Care Plan to the Missouri Consolidated Health Care Plan Benefit Fund

From General Revenue Fund.....	\$239,957,540E
From Federal Funds	76,831,758E
From Other Sources.	<u>43,790,289E</u>
Total.	\$360,579,587

SECTION 5.510.— To the Office of Administration

For the Division of Accounting
 For payment of the state's contribution to the Missouri Consolidated Health
 Care Plan
 From Missouri Consolidated Health Care Plan Benefit Fund. \$360,579,587E

SECTION 5.515.— To the Office of Administration

For the Division of Accounting
 For paying refunds for overpayment or erroneous payment of employee withholding
 taxes
 From General Revenue Fund. \$36,000E

SECTION 5.520.— To the Office of Administration

For the Division of Accounting
 For providing voluntary life insurance
 From the Missouri State Employees' Voluntary Life Insurance Fund. \$862,000E

SECTION 5.525.— To the Office of Administration

For the Division of Accounting
 For employee medical expense reimbursements reserve
 From General Revenue Fund. \$1E

SECTION 5.530.— To the Office of Administration

For the Division of Accounting
 Personal Service for state payroll contingency
 From General Revenue Fund. \$1E

SECTION 5.535.— To the Office of Administration

For the Division of General Services
 For the provision of workers' compensation benefits to state employees through
 either a self-insurance program administered by the Office of Administration
 and/or by contractual agreement with a private carrier and for administrative
 and legal expenses authorized, in part, by Section 105.810, RSMo
 From General Revenue Fund. \$19,738,523E
 From Conservation Commission Fund. 500,000E
 Total. \$20,238,523

SECTION 5.540.— There is hereby transferred out of the State Treasury, chargeable
 to various funds, amounts paid from the General Revenue Fund for workers'
 compensation benefits provided to employees paid from these other funds,
 to the General Revenue Fund

From Federal Funds. \$2,587,156E
 From Other Sources 3,312,844E
 Total. \$5,900,000

SECTION 5.545.— To the Office of Administration

For the Division of General Services
 For workers' compensation tax payments pursuant to Section 287.690, RSMo
 From General Revenue Fund. \$1,915,000E
 From Conservation Commission Fund. 60,000E
 Total. \$1,975,000

OFFICE OF ADMINISTRATION TOTALS

General Revenue Fund.	\$170,700,804
Federal Funds.	76,306,928
Other Funds.	<u>28,876,430</u>
Total.	\$275,879,162

FRINGE BENEFITS TOTALS

General Revenue Fund.	\$510,411,801
Federal Funds.	160,837,877
Other Funds.	<u>144,728,612</u>
Total.	\$815,978,290

Approved June 29, 2006

HB 1006 [CCS SCS HCS HB 1006]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: DEPARTMENT OF AGRICULTURE, DEPARTMENT OF NATURAL RESOURCES, DEPARTMENT OF CONSERVATION, AND THE SEVERAL DIVISIONS.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Agriculture, Department of Natural Resources, Department of Conservation, Office of Administration, and the several divisions and programs thereof and for the expenses, grants, refunds, distributions, and capital improvements projects involving the repair, replacement, and maintenance of state buildings and facilities of the Department of Natural Resources and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds, for the period beginning July 1, 2006 and ending June 30, 2007.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2006 and ending June 30, 2007 as follows:

SECTION 6.005. — To the Department of Agriculture

For the Office of the Director

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation. . . .	\$762,436
Annual salary adjustment in accordance with Section 105.005, RSMo	3,998
For refunds of erroneous receipts due to errors in application for licenses, registrations, permits, certificates, subscriptions, or other fees.	<u>3,640E</u>
From General Revenue Fund.	770,074

For the purpose of funding federal grants and other grants or donations which may

become available between sessions of the general assembly
 Personal Service and/or Expense and Equipment
 From Federal Funds and Other Funds. 1,373,791
 Total (Not to exceed 18.00 F.T.E.). \$2,143,865

SECTION 6.007.— To the Department of Agriculture

For the Office of Administration

For the purpose of funding fuel and utilities

Expense and Equipment. \$335,807

For the purpose of funding building maintenance and repair service contracts

Expense and Equipment. 36,410

From State Fair Fees Fund. \$372,217

SECTION 6.010.— To the Department of Agriculture

There is hereby transferred out of the State Treasury, chargeable to the General

Revenue Fund, to the Missouri Qualified Fuel Ethanol Producer Incentive Fund

From General Revenue Fund. \$8,592,800

There is hereby transferred out of the State Treasury, chargeable to the General

Revenue Fund, to the Missouri Qualified Biodiesel Producer Incentive Fund

From General Revenue Fund. 5,250,000

Total. \$13,842,800

SECTION 6.015.— To the Department of Agriculture

For Missouri Ethanol Producer Incentive Payments

From Missouri Qualified Fuel Ethanol Producer Incentive Fund. \$8,592,800

For Missouri Biodiesel Producer Incentive Payments

From Missouri Qualified Biodiesel Producer Incentive Fund. 5,250,000

Total (0 F.T.E.). \$13,842,800

SECTION 6.020.— To the Department of Agriculture

For the Office of the Director

For operational maintenance and repairs for state-owned facilities

From Facilities Maintenance Reserve Fund (0 F.T.E.). \$94,689

SECTION 6.025.— To the Department of Agriculture

For vehicle replacement

From Federal Funds. \$78,250

From Animal Care Reserve Fund. 47,250

From Single-Purpose Animal Facility Loan Program Fund. 15,750

From Grain Inspection Fees Fund. 53,250

From Petroleum Inspection Fund. 115,500

Total (0 F.T.E.). \$310,000

SECTION 6.030.— To the Department of Agriculture

For the Agriculture Business Development Division

Personal Service and/or Expense and Equipment, provided that not more than
 thirty percent (30%) flexibility is allowed between each appropriation

From General Revenue Fund. \$1,134,701

Personal Service.	96,985
Expense and Equipment	465,744
For the Agriculture Awareness Program.	24,910
For the Governor's Conference on Agriculture expense.	125,000
From Federal Funds and Other Funds.	<u>712,639</u>
Total (Not to exceed 24.45 F.T.E.).	\$1,847,340

SECTION 6.035.— To the Department of Agriculture

For the Agriculture Business Development Division

For the "AgriMissouri" Marketing Program

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation	
From General Revenue Fund.	\$199,532

Expense and Equipment	
From Marketing Development Fund.	10,000
Total (Not to exceed 1.00 F.T.E.).	<u>\$209,532</u>

SECTION 6.040.— To the Department of Agriculture

For the Agriculture Business Development Division

For the Grape and Wine Market Development Program

Personal Service.	\$156,810
Expense and Equipment.	<u>1,662,523</u>
From Marketing Development Fund and/or Missouri Wine and Grape Fund (Not to exceed 3.00 F.T.E.).	\$1,819,333

SECTION 6.045.— To the Department of Agriculture

For the Agriculture Business Development Division

For the Agriculture and Small Business Development Authority

Personal Service.	\$100,748
Expense and Equipment.	<u>21,379</u>
From Single-Purpose Animal Facility Loan Program Fund.	122,127

For the purpose of funding Odor Abatement Competitive Grants

From Federal Funds and/or Other Funds.	<u>500,000</u>
Total (Not to exceed 3.00 F.T.E.).	\$622,127

SECTION 6.050.— To the Department of Agriculture

There is hereby transferred out of the State Treasury, chargeable to the General

Revenue Fund, to the Single-Purpose Animal Facilities Loan Guarantee Fund

From General Revenue Fund.	\$1E
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SECTION 6.055.— To the Department of Agriculture

For the purpose of funding loan guarantees as provided in Section 348.190, RSMo

From Single-Purpose Animal Facilities Loan Guarantee Fund (0 F.T.E.).	\$1E
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SECTION 6.060.— To the Department of Agriculture

There is hereby transferred out of the State Treasury, chargeable to the General

Revenue Fund, to the Agricultural Product Utilization and Business Development
Loan Guarantee Fund

From General Revenue Fund.	\$1E
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SECTION 6.065.— To the Department of Agriculture
 For the purpose of funding loan guarantees as provided in Section 348.409, RSMo
 From Agricultural Product Utilization and Business Development Loan Guarantee
 Fund (0 F.T.E.). \$1E

SECTION 6.070.— To the Department of Agriculture
 For the Agriculture Business Development Division
 For the Agriculture Development Program
 Personal Service. \$201,470
 Expense and Equipment 48,256
 For all monies in the Agriculture Development Fund for investments, reinvestments,
 and for emergency agricultural relief and rehabilitation as provided by law. . . 100,000
 From Agriculture Development Fund (Not to exceed 5.10 F.T.E.). \$349,726

SECTION 6.075.— To the Department of Agriculture
 For the Division of Animal Health
 Personal Service and/or Expense and Equipment, provided that not more than
 twenty percent (20%) flexibility is allowed between each appropriation, and the
 Missouri Department of Agriculture shall not participate in a mandatory National
 Animal Identification System without state legislative or rule making authority.
 Further, the Missouri Department of Agriculture shall begin developing and
 administering a voluntary system that will provide marketing advantages to
 Missouri producers
 From General Revenue Fund. \$1,963,328

 Personal Service. 649,083
 Expense and Equipment 1,015,904E
 From Federal Funds 1,664,987

 Personal Service. 146,239
 Expense and Equipment. 386,602
 From Animal Health Laboratory Fee Fund 532,841

 Personal Service. 353,366
 Expense and Equipment. 202,943
 From Animal Care Reserve Fund. 556,309

To support the Livestock Brands Program
 From Livestock Brands Fund 38,151

For enforcement activities related to the Livestock Dealer Law
 From Livestock Dealer Law Enforcement and Administration Fund. 12,250

For expenses incurred in regulating Missouri livestock markets
 From Livestock Sales and Markets Fees Fund 32,565

For processing livestock market bankruptcy claims
 From Agriculture Bond Trustee Fund 135,000

For the expenditures of contributions, gifts, and grants in support of relief efforts
 to reduce the suffering of abandoned animals
 From Institution Gift Trust Fund. 5,000

Total (Not to exceed 80.00 F.T.E.)..... \$4,940,431

SECTION 6.080.— To the Department of Agriculture

For the Division of Animal Health

For brucellosis ear tags

From General Revenue Fund (0 F.T.E.). \$1,000

SECTION 6.085.— To the Department of Agriculture

For the Division of Animal Health

For funding indemnity payments and for indemnifying producers and owners of
livestock and poultry for preventing the spread of disease during emergencies
declared by the State Veterinarian, subject to the approval by the Department
of Agriculture of a state match rate up to 50 percent

From General Revenue Fund (0 F.T.E.). \$1E

SECTION 6.090.— To the Department of Agriculture

For the Division of Grain Inspection and Warehousing

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund..... \$726,141

Personal Service. 41,858

Expense and Equipment..... 41,180

From Federal Funds 83,038

Personal Service. 1,588,701

Expense and Equipment 305,638

Payment of Federal User Fee. 100,000

From Grain Inspection Fees Fund. 1,994,339

Personal Service. 80,495

Expense and Equipment..... 22,446

From Commodity Council Merchandising Fund. 102,941

Total (Not to exceed 72.25 F.T.E.)..... \$2,906,459

SECTION 6.095.— To the Department of Agriculture

For the Division of Grain Inspection and Warehousing

For the Missouri Aquaculture Council

From Aquaculture Marketing Development Fund. \$25,000E

For refunds to individuals and reimbursements to commodity councils

From Commodity Council Merchandising Fund. 85,000E

For research, promotion, and market development of apples

From Apple Merchandising Fund. 12,000E

For the Missouri Wine Marketing and Research Council

From Missouri Wine Marketing and Research Development Fund. 15,000E

Total (0 F.T.E.). \$137,000

SECTION 6.100.— To the Department of Agriculture

For the Division of Plant Industries

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund. \$1,723,966

Personal Service.	380,332
Expense and Equipment.	<u>504,672</u>
From Federal Funds.	<u>885,004</u>
Total (Not to exceed 49.75 F.T.E.).	\$2,608,970

SECTION 6.105.— To the Department of Agriculture

For the Division of Plant Industries

For the purpose of funding gypsy moth control, including education,
research, and management activities, and for the receipt and disbursement
of funds donated for gypsy moth control, including education, research,
and management activities. Projects funded with donations, including
those contributions made by supporting agencies and groups outside
the Missouri Department of Agriculture, must receive prior approval
from a steering committee composed of one member each from the
Missouri departments of Agriculture, Conservation, Natural Resources,
and Economic Development, the United States Department of Agriculture,
the Missouri wood products industry, the University of Missouri, and
other groups as deemed necessary by the Gypsy Moth Advisory Council,
to be co-chaired by the departments of Agriculture and Conservation

Personal Service
From General Revenue Fund. \$4,801

Personal Service and/or Expense and Equipment, provided that not more than fifty percent (50%) flexibility is allowed between each appropriation	
From Federal Funds and Other Funds.	<u>100,000</u>
Total (Not to exceed 2.00 F.T.E.).	\$104,801

SECTION 6.110.— To the Department of Agriculture

For the Division of Plant Industries

For the purpose of funding boll weevil suppression and eradication

From General Revenue Fund. \$475,000

Personal Service.	71,371
Expense and Equipment.	<u>30,634</u>
From Boll Weevil Suppression and Eradication Fund.	<u>102,005</u>
Total (Not to exceed 2.00 F.T.E.).	\$577,005

SECTION 6.115.— To the Department of Agriculture

For the Division of Weights and Measures

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund. \$1,337,202

Personal Service.	67,766
Expense and Equipment.	<u>50,000</u>
From Federal Funds	<u>117,766</u>

Personal Service.	1,331,517
Expense and Equipment.	<u>764,746</u>
From Petroleum Inspection Fund.	<u>2,096,263</u>
Total (Not to exceed 73.00 F.T.E.).	\$3,551,231

SECTION 6.120.— To the Department of Agriculture

For the Missouri State Fair

Personal Service	
From General Revenue Fund.	\$534,998

Personal Service.	1,238,643
Expense and Equipment.	<u>2,830,415</u>
From State Fair Fees Fund.	<u>4,069,058</u>
Total (Not to exceed 61.75 F.T.E.).	\$4,604,056

SECTION 6.125.— To the Department of Agriculture

For cash to start the Missouri State Fair

Expense and Equipment	
From State Fair Fees Fund.	\$75,000
From State Fair Trust Fund.	<u>10,000</u>
Total (0 F.T.E.).	\$85,000

SECTION 6.130.— To the Department of Agriculture

For the Missouri State Fair

For equipment replacement	
Expense and Equipment	
From State Fair Fees Fund (0 F.T.E.).	\$166,062

SECTION 6.135.— To the Department of Agriculture

For the Missouri State Fair

For the Aid-to-Fairs Premiums Program for youth participants in county, local,
and district fairs

From Marketing Development Fund (0 F.T.E.).	\$1E
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SECTION 6.140.— To the Department of Agriculture

For the State Milk Board

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation	
From General Revenue Fund.	\$122,749

Personal Service and/or Expense and Equipment	
From Milk Inspection Fees Fund	1,450,737

Expense and Equipment	
From State Contracted Manufacturing Dairy Plant Inspection and Grading Fee Fund.	<u>8,000</u>
Total (Not to exceed 18.00 F.T.E.).	\$1,581,486

SECTION 6.200.— To the Department of Natural Resources

For department operations, administration, and support

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation. . .	\$1,024,086
Annual salary adjustment in accordance with Section 105.005, RSMo.	<u>862</u>

From General Revenue Fund.	1,024,948
Personal Service.	3,577,622
Annual salary adjustment in accordance with Section 105.005, RSMo	3,020
Expense and Equipment.	<u>995,864</u>
From Federal Funds and Other Funds	4,576,506
For Contractual Audits	
From Federal Funds and Other Funds.	<u>100,000E</u>
Total (Not to exceed 102.24 F.T.E.).	<u>\$5,701,454</u>

SECTION 6.205.— To the Department of Natural Resources

For the Energy Center	
Personal Service.	\$1,078,112
Expense and Equipment.	<u>220,805</u>
From Federal Funds and Other Funds (Not to exceed 24.00 F.T.E.).	<u>\$1,298,917</u>

SECTION 6.210.— To the Department of Natural Resources

For the purpose of funding the promotion of energy, renewable energy, and energy efficient state government	
From Utilicare Stabilization Fund.	\$100E
From Federal Funds and Other Funds	<u>8,311,474E</u>
Total.	<u>\$8,311,574</u>

SECTION 6.220.— To the Department of Natural Resources

For demonstration projects and technical assistance related to soil and water conservation	
From Federal Funds.	\$100,000
For grants to local soil and water conservation districts.	8,401,275
For soil and water conservation cost-share grants.	20,250,000E
For a loan interest-share program.	300,000E
For a special area land treatment program.	6,896,200E
For grants to colleges and universities for research projects on soil erosion and conservation.	<u>160,000E</u>
From Soil and Water Sales Tax Fund.	<u>36,007,475</u>
Total (0 F.T.E.).	<u>\$36,107,475</u>

SECTION 6.225.— To the Department of Natural Resources

For the Division of Environmental Quality, the Field Services Division, the Division of Geology and Land Survey, and the Water Resources Center	
Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation	
From General Revenue Fund.	\$7,723,791
Personal Service.	33,037,015
Expense and Equipment.	<u>12,978,868</u>
From Federal Funds and Other Funds.	<u>46,015,883</u>
Total (Not to exceed 932.48 F.T.E.).	<u>\$53,739,674</u>

SECTION 6.230.— To the Department of Natural Resources

For expenditures of payments received for damages to the state's natural resources

From Natural Resources Protection Fund-Damages Subaccount or Natural Resources
Protection Fund-Water Pollution Permit Fee Subaccount (0 F.T.E.). \$269,711E

SECTION 6.235.— To the Department of Natural Resources
For funding environmental education, demonstration projects, and technical
assistance grants
From Federal Funds and Other Funds (0 F.T.E.). \$125,000E

SECTION 6.240.— To the Department of Natural Resources
For grants and contracts to local air pollution control agencies and to organizations
for air pollution
From Federal Funds and Other Funds.. . . . \$3,436,300E

For asbestos grants and contracts to local air pollution control agencies
From Natural Resources Protection Fund-Air Pollution Asbestos Fee Subaccount. 75,000E
Total (0 F.T.E.). \$3,511,300

SECTION 6.245.— To the Department of Natural Resources
For the purpose of funding a motor vehicle emissions program
Personal Service. \$610,201
Expense and Equipment.. . . . 713,658
From Federal Funds and Other Funds (Not to exceed 18.02 F.T.E.). \$1,323,859

SECTION 6.250.— To the Department of Natural Resources
For contracts for the analysis of hazardous waste samples
From Federal Funds. \$100,000
From Hazardous Waste Fund. 60,210

For the environmental emergency response system
From Hazardous Waste Fund. 30,000E
From Federal Funds 250,000

For emergency response loans in accordance with Section 260.546, RSMo
From Hazardous Waste Fund. 150,000

For cleanup of controlled substances
From Federal Funds 124,999E
Total (0 F.T.E.). \$715,209

SECTION 6.255.— To the Department of Natural Resources
There is hereby transferred out of the State Treasury, chargeable to the General
Revenue Fund, to the Hazardous Waste Fund
From General Revenue Fund.. . . . \$648,575

SECTION 6.260.— To the Department of Natural Resources
For the cleanup of leaking underground storage tanks
From Federal Funds. \$420,000

For the cleanup of hazardous waste sites
From Federal Funds and Other Funds 975,000E
From Hazardous Waste Fund. 21,274E
From Dry-cleaning Environmental Response Trust Fund. 200,000E

Total (0 F.T.E.)..... \$1,616,274

SECTION 6.265.— To the Department of Natural Resources

For the receipt and expenditure of bond forfeiture funds for the reclamation
of mined land

From Mined Land Reclamation Fund. \$1,400,000

For the reclamation of mined lands under the provisions of Section 444.960, RSMo

From Coal Mine Land Reclamation Fund .. 850,000

For the reclamation of abandoned mined lands

From Federal Funds 1,750,000

For contracts for hydrologic studies to assist small coal operators to meet permit
requirements

From Federal Funds. 50,000

Total (0 F.T.E.)..... \$4,050,000

SECTION 6.270.— To the Department of Natural Resources

For implementation provisions of the Solid Waste Management Law in accordance
with Sections 260.250, RSMo, through 260.345, RSMo, and Section 260.432,
RSMo

From Solid Waste Management Fund. \$6,300,000E

From Solid Waste Management Fund-Scrap Tire Subaccount 1,636,999E

Total (0 F.T.E.)..... \$7,936,999

SECTION 6.275.— To the Department of Natural Resources

For funding expenditures of forfeited financial assurance instruments to ensure
proper closure and post closure of solid waste landfills, with General Revenue
Fund expenditures not to exceed collections pursuant to Section 260.228, RSMo

From General Revenue Fund. \$17,304E

From Post Closure Fund .. 141,599E

Total (0 F.T.E.)..... \$158,903

SECTION 6.280.— To the Department of Natural Resources

For closure of concentrated animal feeding operations

From Concentrated Animal Feeding Operation Indemnity Fund (0 F.T.E.). \$100,000

SECTION 6.285.— To the Department of Natural Resources

For expenditures in accordance with the provisions of Section 259.190, RSMo

From Oil and Gas Remedial Fund (0 F.T.E.). \$23,000E

SECTION 6.290.— To the Department of Natural Resources

For grants and contracts to study or reduce water pollution, improve ground
water and/or surface water quality, for grants to colleges for wastewater
operator training, and for grants for lake restoration

From Federal Funds. \$9,444,925E

From Natural Resources Protection Fund-Water Pollution Permit Fee Subaccount. . 50,000

For drinking water sampling, analysis, and public drinking water quality and
treatment studies

From Safe Drinking Water Fund. 296,444

Total (0 F.T.E.). \$9,791,369

SECTION 6.295.— To the Department of Natural Resources

For the state's share of construction grants

From Water Pollution Control Fund. \$3,000,000E

For loans pursuant to Sections 644.026-644.124, RSMo

From Water and Wastewater Loan Fund and/or Water and Wastewater

Loan Revolving Fund 60,000,000E

For rural sewer and water grants and loans

From Water Pollution Control Fund and/or Rural Water and Sewer Loan

Revolving Fund. 20,660,000E

For stormwater control grants or loans

From Water Pollution Control Fund, Stormwater Control Fund, and/or

Stormwater Loan Revolving Fund. 20,000,000E

For loans for drinking water systems pursuant to Sections 644.026-644.124, RSMo

From Water and Wastewater Loan Fund and/or Water and Wastewater

Loan Revolving Fund. 14,000,000E

Total (0 F.T.E.). \$117,660,000

SECTION 6.310.— To the Department of Natural Resources

For the Division of Geology and Land Survey

For surveying corners and for records restorations

From Federal Funds and Other Funds (0 F.T.E.). \$240,000

SECTION 6.315.— To the Department of Natural Resources

For the Division of Geology and Land Survey

For operational maintenance and repairs for state-owned facilities

From Facilities Maintenance Reserve Fund (0 F.T.E.). \$8,759

SECTION 6.320.— To the Department of Natural Resources

For the Division of State Parks

For field operations, administration, and support

Personal Service. \$21,723,968

Expense and Equipment. 10,745,902

From Federal Funds and Other Funds 32,469,870

For payments to levee districts

From Parks Sales Tax Fund. 1E

Total (Not to exceed 719.71 F.T.E.). \$32,469,871

SECTION 6.325.— To the Department of Natural Resources

For the Division of State Parks

For the Bruce R. Watkins Cultural Heritage Center

From Parks Sales Tax Fund (0 F.T.E.). \$100,000

SECTION 6.330.— To the Department of Natural Resources

For the Division of State Parks

For the payment to counties in lieu of real property taxes, as appropriate, on lands

acquired by the department after July 1, 1985, for park purposes and not more than the amount of real property tax imposed by political subdivisions at the time acquired, in accordance with the provisions of Section 47(a) of the Constitution of Missouri

From Parks Sales Tax Fund (0 F.T.E.). \$25,875E

SECTION 6.335.— To the Department of Natural Resources

For the Division of State Parks

For parks and historic sites

For recoupments and donations that are consistent with current operations and conceptual development plans. The expenditure of any single directed donation of funds greater than \$500,000 requires the approval of the chairperson or designee of both Senate Appropriations and House Budget committees

From State Park Earnings Fund (0 F.T.E.). \$72,390E

SECTION 6.340.— To the Department of Natural Resources

For the Division of State Parks

For the purchase of publications, souvenirs, and other items for resale at state parks and state historic sites

Expense and Equipment

From State Park Earnings Fund (0 F.T.E.). \$500,000E

SECTION 6.345.— To the Department of Natural Resources

For the Division of State Parks

For all expenses incurred in the operation of state park concession projects or facilities when such operations are assumed by the Department of Natural Resources

From State Park Earnings Fund (0 F.T.E.). \$200,000E

SECTION 6.350.— To the Department of Natural Resources

For the Division of State Parks

For the expenditure of grants to state parks

From Federal Funds and Other Funds (0 F.T.E.). \$350,000

SECTION 6.355.— To the Department of Natural Resources

For the Division of State Parks

For Administration and Support

For grants-in-aid from the Land and Water Conservation Fund and other funds to state agencies and political subdivisions for outdoor recreation projects

From Federal Funds (0 F.T.E.). \$2,324,034E

SECTION 6.360.— To the Department of Natural Resources

For Historic Preservation Operations

Personal Service. \$631,796

Expense and Equipment. 1,017,094

From Federal Funds and Other Funds (Not to exceed 17.25 F.T.E.). \$1,648,890

SECTION 6.362.— To the Department of Natural Resources

For the purpose of funding a historical exhibit, in conjunction with the Missouri Historical Society, presenting the work and contributions of African Americans in Missouri, with special emphasis on the sesquicentennial of the Civil War, including audio equipment, education materials, and any other necessary

expense and equipment	
From General Revenue Fund.....	\$50,000
From Federal Funds.	<u>1E</u>
Total (0 F.T.E.).	\$50,001

SECTION 6.365.— To the Department of Natural Resources

There is hereby transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Historic Preservation Revolving Fund

From General Revenue Fund.....	\$550,000
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SECTION 6.370.— To the Department of Natural Resources

For historic preservation grants and contracts

From Federal Funds (0 F.T.E.).....	\$500,000
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SECTION 6.375.— To the Department of Natural Resources

For the Board of Trustees for the Petroleum Storage Tank Insurance Fund

For the general administration and operation of the fund

Personal Service.	\$179,425
Expense and Equipment	2,101,000

For the purpose of investigating and paying claims obligations of the

Petroleum Storage Tank Insurance Fund.	24,990,000E
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For the purpose of funding the refunds of erroneously collected receipts.	<u>10,000E</u>
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From Petroleum Storage Tank Insurance Fund (Not to exceed 3.00 F.T.E.). . .	\$27,280,425
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SECTION 6.380.— To the Department of Natural Resources

For petroleum related activities and environmental emergency response

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation

From Petroleum Storage Tank Insurance Fund (Not to exceed 17.74 F.T.E.). . .	\$1,035,213
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SECTION 6.385.— To the Department of Natural Resources

For agency-wide operations

For Homeland Security Grants

For all costs related to Homeland Security initiatives

From Federal Funds (Not to exceed 1.00 F.T.E.).	\$412,450E
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SECTION 6.390.— To the Department of Natural Resources

For minority and under-represented student scholarships

From General Revenue Fund.....	\$32,964
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From Recruitment and Retention Scholarship Fund.	<u>50,000</u>
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Total (0 F.T.E.).	\$82,964
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SECTION 6.395.— To the Department of Natural Resources

For incentives related to Jobs Now Projects approved by the Department of Natural Resources and the Office of Administration

From Federal Funds and Other Funds (0 F.T.E.).	\$1,000E
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SECTION 6.400.— To the Department of Natural Resources

For revolving services

Expense and Equipment
 From Natural Resources Revolving Services Fund (0 F.T.E.). \$2,476,244

SECTION 6.405.— To the Department of Natural Resources
 For sales tax on retail sales
 From any funds administered by the Department of Natural Resources,
 except General Revenue Fund (0 F.T.E.). \$235,000E

SECTION 6.410.— There is hereby transferred out of the State Treasury to the
 Department of Natural Resources Cost Allocation Fund
 From any funds appropriated for the Department of Natural Resources,
 except General Revenue Fund (0 F.T.E.). \$12,679,875

SECTION 6.415.— To the Department of Natural Resources
 For the purpose of funding the refund of erroneous collected receipts
 From any funds administered by the Department of Natural Resources,
 except General Revenue Fund (0 F.T.E.). \$250,000E

SECTION 6.420.— To the Department of Natural Resources
 For the State Environmental Improvement and Energy Resources Authority
 For all costs incurred in the operation of the authority, including special studies
 From State Environmental Improvement Authority Fund (0 F.T.E.). \$1E

SECTION 6.600.— To the Department of Conservation
 For Personal Service and Expense and Equipment, including refunds; and for
 payments to counties for the unimproved value of land in lieu of property
 taxes for privately owned lands acquired by the Conservation Commission
 after July 1, 1977, and for lands classified as forest croplands (Not to
 exceed 1,871.61 F.T.E.). \$141,048,873

DEPARTMENT OF AGRICULTURE TOTALS

General Revenue Fund.	\$22,832,655
Federal Funds.	4,933,906
Other Funds.	<u>14,925,244</u>
Total.	\$42,691,805

DEPARTMENT OF NATURAL RESOURCES TOTALS

General Revenue Fund.	\$10,047,582
Federal Funds.	42,796,822
Other Funds.	<u>270,789,147</u>
Total.	\$323,633,551

DEPARTMENT OF CONSERVATION TOTALS

Other Funds Total.	\$141,048,873
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Approved June 29, 2006

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: Department of Economic Development, Department of Insurance, and Department of Labor and Industrial Relations.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Economic Development, Department of Insurance, and Department of Labor and Industrial Relations and the several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2006 and ending June 30, 2007.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2006 and ending June 30, 2007, as follows:

SECTION 7.005.— To the Department of Economic Development

For general administration of Administrative Services

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation.	\$700,146
Annual salary adjustment in accordance with Section 105.005, RSMo.	<u>1,086</u>
From General Revenue Fund.	701,232

Personal Service.	2,747,893
Annual salary adjustment in accordance with Section 105.005, RSMo	1,630
Expense and Equipment.	<u>670,659</u>
From Federal Funds	3,420,182

Personal Service.	705,829
Annual salary adjustment in accordance with Section 105.005, RSMo	1,165
Expense and Equipment	663,559
For refunds.	<u>5,000E</u>
From Department of Economic Development Administrative Fund.	<u>1,375,553</u>
Total (Not to exceed 102.05 F.T.E.).	\$5,496,967

SECTION 7.010.— To the Department of Economic Development

Funds are to be transferred, for mailroom and support services, administrative services, rent for state office buildings by the Department of Economic Development, and information systems, the following amounts to the Department of Economic Development Administrative Fund

From Federal Funds.	\$247,990E
From Division of Tourism Supplemental Revenue Fund	159,347E
From Division of Finance Fund.	80,504E
From Division of Credit Unions Fund.	32,588E
From Manufactured Housing Fund	11,065E
From Public Service Commission Fund.	208,224E
From Professional Registration Fees Fund.	<u>593,586E</u>

Total (0 F.T.E.) \$1,333,304

SECTION 7.015.— To the Department of Economic Development

For general administration of Business and Community Services Division activities and programs

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.	\$2,520,821
From Federal Funds	1,118,439
From Department of Economic Development Administrative Fund.	46,470
From International Promotions Revolving Fund	72,238E
From Missouri Technology Investment Fund	53,953
From Missouri Job Development Fund	431,758
From Economic Development Advancement Fund.	3,894,457
Total (Not to exceed 86.95 F.T.E.).	\$8,138,136

SECTION 7.020.— To the Department of Economic Development

For Innovation Centers

For Rolla Innovation Center.	\$200,056
For Southeast Missouri Innovation Center	200,000
For St. Louis Innovation Center.	300,000
For Kirksville Innovation Center	175,000
For Joplin Innovation Center	175,000
For Columbia Innovation Center	150,750
For Kansas City Innovation Centers	150,000
For Springfield Innovation Center.	150,000
From Missouri Technology Investment Fund	1,500,806

For Missouri Manufacturing Extension Partnership

All Expenditures

From Federal Funds	2,200,000E
From Private Contributions	2,600,000E
From Missouri Technology Investment Fund.	1,702,089
Total (0 F.T.E.).	\$8,002,895

SECTION 7.025.— Funds are to be transferred out of the State Treasury, chargeable to the General Revenue Fund to the Missouri Technology Investment Fund, for the Missouri Manufacturing Extension Partnership, Innovation Centers, and other technology investments

From General Revenue Fund.	\$3,305,036
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SECTION 7.030.— To the Department of Economic Development

For funding new and expanding industry training programs and basic industry retraining programs

From Missouri Job Development Fund (0 F.T.E.).	\$7,583,104E
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SECTION 7.035.— Funds are to be transferred out of the State Treasury, chargeable to the General Revenue Fund to the Missouri Job Development Fund

From General Revenue Fund.	\$7,583,939
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SECTION 7.040.— To the Department of Economic Development

For the Missouri Community College New Jobs Training Program

For funding training of workers by community college districts
 From Missouri Community College Job Training Program Fund (0 F.T.E.). . \$16,000,000E

SECTION 7.045.— To the Department of Economic Development
 For the Jobs Retention Training Program
 From Missouri Community College Job Retention Training Program
 Fund (0 F.T.E.). \$10,000,000

SECTION 7.050.— Funds are to be transferred out of the State Treasury, chargeable
 to the Property Reuse Fund to the General Revenue Fund
 From Property Reuse Fund. \$567,630

SECTION 7.055.— To the Department of Economic Development
 For the Division of Business and Community Services
 For the Business Extension and Services Program
 From Business Extension Service Team Fund (0 F.T.E.). \$1,854,000

SECTION 7.060.— To the Department of Economic Development
 For the Division of Business and Community Services
 For Community Development Programs
 From Federal Funds (0 F.T.E.). \$28,000,000E

SECTION 7.065.— To the Department of Economic Development
 For the Division of Business and Community Services
 For the Missouri Main Street Program
 From Main Street Program Fund (0 F.T.E.). \$40,590

SECTION 7.066.— Funds are to be transferred out of the State Treasury, chargeable
 to the General Revenue Fund to the Missouri Mainstreet Fund
 From General Revenue Fund. \$40,000

SECTION 7.070.— To the Department of Economic Development
 For the Division of Business and Community Services
 For the Brownfields Redevelopment Program
 From Property Reuse Fund (0 F.T.E.). \$600,000

SECTION 7.072.— To the Department of Economic Development
 For the Division of Business and Community Services
 For the Youth Opportunities and Violence Prevention Program
 From Youth Opportunities and Violence Prevention Fund (0 F.T.E.). \$1E

SECTION 7.073.— To the Department of Economic Development
 For the Division of Business and Community Services
 For the Delta Regional Authority, provided that funds may be expended only if
 federal funds are appropriated to the authority pursuant to the Consolidated
 Farm and Rural Development Act (7 U.S.C. 1921 et.seq.)
 Expense and Equipment
 From General Revenue Fund (0 F.T.E.). \$80,000

SECTION 7.075.— To the Department of Economic Development
 For Missouri supplemental tax increment financing as provided in Section 99.845,
 RSMo. This appropriation may be used for the following projects: Brush

Creek, Kansas City Midtown, Excelsior Springs Elms Hotel, Independence Santa Fe Trail Neighborhood, St. Louis City Convention Hotel, Cupples Station, Springfield Jordan Valley Park, Kansas City Bannister Mall/Three Trails, St. Louis Lambert Airport Eastern Perimeter, Old Post Office in Kansas City, 1200 Main Garage Project in Kansas City, Riverside Levee, Branson Landing, Eastern Jackson County Bass Pro, Antioch Project in Kansas City, and Kansas City East Village Project. The presence of a project in this list is not an indication said project is nor shall be approved for tax increment financing. A listed project must have completed the application process and a certificate of approval must have been issued pursuant to Section 99.845(10) before a project may be disbursed funds subject to the appropriation

From Missouri Supplemental Tax Increment Financing Fund (0 F.T.E.). \$3,932,002

SECTION 7.080.— Funds are to be transferred out of the State Treasury, chargeable to the General Revenue Fund to the Missouri Supplemental Tax Increment Financing Fund

From General Revenue Fund. \$3,932,002

SECTION 7.085.— To the Department of Economic Development
For the Missouri Downtown Economic Stimulus Act as provided in Sections 99.915 to 99.980, RSMo

From State Supplemental Downtown Development Fund (0 F.T.E.). \$1E

SECTION 7.090.— To the Department of Economic Development
For the Missouri Rural Economic Stimulus Act as provided in Sections 99.1000 to 99.1060, RSMo

From State Supplemental Rural Development Fund (0 F.T.E.). \$1E

SECTION 7.095.— Funds are to be transferred out of the State Treasury, chargeable to the State Supplemental Downtown Development Fund to the General Revenue Fund

From State Supplemental Downtown Development Fund. \$1E

SECTION 7.100.— Funds are to be transferred out of the State Treasury, chargeable to the State Supplemental Rural Development Fund to the General Revenue Fund

From State Supplemental Rural Development Fund. \$1E

SECTION 7.105.— To the Department of Economic Development
To the Division of Business and Community Services
For the Missouri Community Service Commission
Personal Service

From General Revenue Fund. \$38,666

Personal Service. 177,362

Expense and Equipment 2,793,562E

From Federal Funds. 2,970,924

Total (Not to exceed 5.00 F.T.E.). \$3,009,590

SECTION 7.110.— To the Department of Economic Development
For the Missouri State Council on the Arts
Expense and Equipment

From General Revenue Fund.....	\$500,000
Personal Service.....	276,357
Expense and Equipment.....	694,699
From Federal Funds	971,056
Personal Service.....	435,573
Expense and Equipment.....	4,255,498
From Missouri Arts Council Trust Fund.....	4,691,071
For Public Television Grants	
For grants to public television stations as provided in Section 37.200 through 37.230, RSMo	
From General Revenue Fund.....	95,000
For grants to public television and radio stations as provided in Section 143.183, RSMo	
From Missouri Public Broadcasting Corporation Special Fund	600,000
For the Missouri Humanities Council	
From Missouri Humanities Council Trust Fund.....	98,000
Total (Not to exceed 16.00 F.T.E.).....	\$6,955,127
SECTION 7.115. — Funds are to be transferred out of the State Treasury, chargeable to the General Revenue Fund to the Missouri Arts Council Trust Fund as authorized by Sections 185.100 and 143.183, RSMo	
From General Revenue Fund.....	\$3,300,000
SECTION 7.120. — Funds are to be transferred out of the State Treasury, chargeable to the General Revenue Fund to the Missouri Humanities Council Trust Fund as authorized by Sections 186.065 and 143.183, RSMo	
From General Revenue Fund.....	\$550,000
SECTION 7.125. — Funds are to be transferred out of the State Treasury, chargeable to the General Revenue Fund to the Missouri Public Broadcasting Corporation Special Fund as authorized by Section 143.183, RSMo	
From General Revenue Fund.....	\$550,000
SECTION 7.130. — To the Department of Economic Development	
For general administration of Workforce Development activities	
For the Division of Workforce Development	
Personal Service.....	\$20,169,096E
Expense and Equipment.....	3,100,197E
From Federal Funds	23,269,293
Personal Service.....	185,965
Expense and Equipment.....	18,955
From Other Funds.....	204,920
From Guard at Home Fund.....	350,000
Total (Not to exceed 536.72 F.T.E.).....	\$23,824,213
SECTION 7.132. — Funds are to be transferred out of the State Treasury, from Federal Funds to the Guard at Home Fund	

From Federal Funds. \$350,000

SECTION 7.135.— To the Department of Economic Development

For the purpose of providing research funding to create an innovative model for specific persons with autism through a contract with a Southeast Missouri not-for-profit organization concentrating on workforce transition skills related to the maximization of giftedness within the autistic population

From General Revenue Fund (0 F.T.E.). \$200,000

SECTION 7.140.— To the Department of Economic Development

For job training and related activities

From General Revenue Fund. \$1,980,563

From Federal and Other Funds 90,066,171

For administration of programs authorized and funded by the United States Department of Labor, such as Trade Adjustment Assistance (TAA), and provided that all funds shall be expended from discrete accounts and that no monies shall be expended for funding administration of these programs by the Division of Workforce Development

From Federal Funds. 7,000,000E

Total. \$99,046,734

SECTION 7.145.— To the Department of Economic Development

For the Missouri Women's Council

Personal Service. \$52,000

Expense and Equipment. 16,502

From Federal Funds (Not to exceed 1.00 F.T.E.). \$68,502

SECTION 7.150.— To the Department of Economic Development

For the purchase, lease, and renovation of buildings, land, and erection of buildings

From Special Employment Security Fund (0 F.T.E.). \$216,000

SECTION 7.155.— To the Department of Economic Development

For the Division of Tourism to include coordination of advertising of at least \$70,000

for the Missouri State Fair

Personal Service. \$1,521,714

Expense and Equipment. 16,672,581

From Division of Tourism Supplemental Revenue Fund 18,194,295

Expense and Equipment

From Tourism Marketing Fund. 15,000

Total (Not to exceed 41.00 F.T.E.). \$18,209,295

SECTION 7.160.— Funds are to be transferred out of the State Treasury, chargeable to the General Revenue Fund to the Division of Tourism Supplemental Revenue Fund

From General Revenue Fund. \$17,767,811

SECTION 7.165.— To the Department of Economic Development

For general administration of Affordable Housing activities

For the Missouri Housing Development Commission
 For funding housing subsidy grants or loans
 From Missouri Housing Trust Fund (0 F.T.E.). \$4,450,000E

SECTION 7.170.— To the Department of Economic Development

For Manufactured Housing
 Personal Service. \$321,805
 Expense and Equipment 145,089
 For Manufactured Housing programs. 7,935E
 For refunds. 10,000E
 From Manufactured Housing Fund (Not to exceed 7.50 F.T.E.). \$484,829

SECTION 7.175.— To the Department of Economic Development

For the Division of Credit Unions
 Personal Service. \$1,079,912
 Expense and Equipment. 123,775
 From Division of Credit Unions Fund (Not to exceed 15.50 F.T.E.). \$1,203,687

SECTION 7.180.— To the Department of Economic Development

For the Division of Finance
 Personal Service. \$5,388,581
 Expense and Equipment 707,858
 For Out-of-State Examinations.. . . . 50,000E
 From Division of Finance Fund (Not to exceed 93.15 F.T.E.). \$6,146,439

SECTION 7.185.— Funds are to be transferred out of the Division of Savings
 and Loan Supervision Fund to the Division of Finance Fund, for the
 purpose of supervising state chartered savings and loan associations

From Division of Savings and Loan Supervision Fund. \$39,400E

SECTION 7.190.— Funds are to be transferred out of the Division of Finance Fund
 to the General Revenue Fund in accordance with Section 361.170, RSMo

From Division of Finance Fund. \$500,000E

SECTION 7.195.— Funds are to be transferred out of the Division of Savings and
 Loan Supervision Fund to the General Revenue Fund in accordance with
 Section 369.324, RSMo

From Division of Savings and Loan Supervision Fund. \$6,909E

SECTION 7.200.— Funds are to be transferred out of the Residential Mortgage
 Licensing Fund to the Division of Finance Fund, for the purpose of administering
 the Residential Mortgage Licensing Law

From Residential Mortgage Licensing Fund. \$150,000E

***SECTION 7.205.**— To the Department of Economic Development

For the Office of Public Counsel
 Personal Service and/or Expense and Equipment, provided that not more than
 twenty percent (20%) flexibility is allowed between each appropriation
 From General Revenue Fund. \$740,310

 Personal Service. 219,708
 Expense and Equipment. 34,761

From Public Counsel Fund..	254,469
Total (Not to exceed 16.00 F.T.E.).	<u>\$994,779</u>

*I hereby veto \$254,469 Public Counsel funds for the Office of Public Counsel. Enacting legislation was not passed; therefore, this funding mechanism does not exist.

Personal Service by \$219,708 from \$219,708 to \$0 from Public Counsel Fund.
Expense and Equipment by \$34,761 from \$34,761 to \$0 from Public Counsel Fund.
From \$254,469 to \$0 in total from Public Counsel Fund.
From \$994,779 to \$740,310 in total for the section.

MATT BLUNT, GOVERNOR

SECTION 7.210.— To the Department of Economic Development

For general administration of Utility Regulation activities

For the Public Service Commission

Personal Service..	\$9,776,039
Annual salary adjustment in accordance with Section 105.005, RSMo	19,045
Expense and Equipment	2,523,721
For refunds..	<u>10,000E</u>
From Public Service Commission Fund..	12,328,805

For Deaf Relay Service and Equipment Distribution Program

From Deaf Relay Service and Equipment Distribution Program Fund	5,000,000
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Expense and Equipment

From Manufactured Housing Fund..	2,235
Total (Not to exceed 193.00 F.T.E.).	<u>\$17,331,040</u>

SECTION 7.215.— To the Department of Economic Development

For general administration of the Division of Professional Registration

Personal Service..	\$2,869,095
Expense and Equipment	1,027,514
For examination fees	88,000E

For refunds..	<u>35,000E</u>
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From Professional Registration Fees Fund (Not to exceed 78.00 F.T.E.).	\$4,019,609
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SECTION 7.220.— To the Department of Economic Development

For the State Board of Accountancy

Personal Service..	\$262,941
Expense and Equipment.	180,647
From Board of Accountancy Fund (Not to exceed 7.00 F.T.E.).	<u>\$443,588</u>

SECTION 7.225.— To the Department of Economic Development

For the State Board of Architects, Professional Engineers, Land Surveyors,
and Landscape Architects

Personal Service..	\$354,281
Expense and Equipment.	<u>394,587</u>

From Board for Architects, Professional Engineers, Land Surveyors, and Landscape

Architects Fund (Not to exceed 10.00 F.T.E.).	\$748,868
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SECTION 7.230.— To the Department of Economic Development

For the State Board of Chiropractic Examiners

Expense and Equipment

From Board of Chiropractic Examiners' Fund (0 F.T.E.). \$149,567

SECTION 7.235.— To the Department of Economic Development

For the State Board of Cosmetology and Barber Examiners

Expense and Equipment. \$291,273

For criminal history checks. 1,000E

From Board of Cosmetology and Barber Examiners Fund (0 F.T.E.). \$292,273

SECTION 7.240.— To the Department of Economic Development

For the Missouri Dental Board

Personal Service. \$350,782

Expense and Equipment. 262,863

From Dental Board Fund (Not to exceed 8.50 F.T.E.). \$613,645

SECTION 7.245.— To the Department of Economic Development

For the State Board of Embalmers and Funeral Directors

Expense and Equipment

From Board of Embalmers and Funeral Directors' Fund (0 F.T.E.). \$145,393

SECTION 7.250.— To the Department of Economic Development

For the State Board of Registration for the Healing Arts

Personal Service. \$1,692,309

Expense and Equipment 759,494

For payment of fees for testing services. 10,000E

From Board of Registration for Healing Arts Fund (Not to exceed 44.00 F.T.E.). \$2,461,803

SECTION 7.255.— To the Department of Economic Development

For the State Board of Nursing

Personal Service. \$976,282

Expense and Equipment 752,496

For criminal history checks. 174,979E

From Board of Nursing Fund (Not to exceed 28.00 F.T.E.). \$1,903,757

SECTION 7.260.— To the Department of Economic Development

For the State Board of Optometry

Expense and Equipment

From Board of Optometry Fund (0 F.T.E.). \$42,043

SECTION 7.265.— To the Department of Economic Development

For the State Board of Pharmacy

Personal Service. \$886,105

Expense and Equipment 503,348

For criminal history checks. 150,000E

From Board of Pharmacy Fund (Not to exceed 14.00 F.T.E.). \$1,539,453

SECTION 7.270.— To the Department of Economic Development

For the State Board of Podiatric Medicine

Expense and Equipment

From Board of Podiatric Medicine Fund (0 F.T.E.). \$20,669

SECTION 7.275.— To the Department of Economic Development

For the Missouri Real Estate Commission

Personal Service.....	\$869,495
Expense and Equipment	287,544
For criminal history checks.....	<u>30,000E</u>
From Missouri Real Estate Commission Fund (Not to exceed 23.00 F.T.E.)....	\$1,187,039

SECTION 7.280.— To the Department of Economic Development

For the Missouri Veterinary Medical Board

Expense and Equipment.....	\$69,579
For payment of fees for testing services	<u>40,000E</u>
From Veterinary Medical Board Fund (0 F.T.E.).....	\$109,579

SECTION 7.285.— To the Department of Economic Development

For funding transfer of funds to the General Revenue Fund

From Board of Accountancy Fund.....	\$28,000E
From Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects Fund	122,100E
From Athletic Fund	14,400E
From Board of Chiropractic Examiners' Fund	8,000E
From Clinical Social Workers Fund.....	9,064E
From Committee of Professional Counselors Fund	15,000E
From Dental Board Fund	31,200E
From Dietitian Fund.....	1,200E
From Board of Embalmers and Funeral Directors' Fund.....	85,000E
From Endowed Care Cemetery Audit Fund.....	9,100E
From the Board of Geologist Registration Fund.....	7,200E
From Board of Registration for Healing Arts Fund	190,000E
From Hearing Instrument Specialist Fund.....	7,700E
From Interior Designer Council Fund.....	1,200E
From Marital and Family Therapists' Fund	2,200E
From Board of Nursing Fund	135,000E
From Missouri Board of Occupational Therapy Fund	8,961E
From Board of Optometry Fund	13,408E
From Board of Pharmacy Fund.....	119,000E
From Board of Podiatric Medicine Fund.....	7,700E
From State Committee of Psychologists Fund	26,000E
From Real Estate Appraisers Fund	51,000E
From Respiratory Care Practitioners Fund	6,250E
From State Committee of Interpreters Fund.....	7,800E
From Missouri Real Estate Commission Fund.....	150,000E
From Veterinary Medical Board Fund	22,200E
From Tattoo Fund	5,047E
From Acupuncturist Fund.....	3,000E
From Massage Therapy Fund.....	5,200E
From Athletic Agent Fund	1E
From Board of Cosmetology and Barber Examiners Fund.....	<u>91,250E</u>
Total.....	\$1,183,181

SECTION 7.290.— To the Department of Economic Development

Funds are to be transferred, for payment of operating expenses, the following

amounts to the Professional Registration Fees Fund	
From Board of Accountancy Fund	\$133,938E
From Board for Architects, Professional Engineers, Land Surveyors, and Landscape Architects Fund	278,472E
From Athletic Fund	189,295E
From Board of Chiropractic Examiners' Fund	133,850E
From Clinical Social Workers Fund	214,657E
From Committee of Professional Counselors Fund	283,797E
From Dental Board Fund	69,800E
From Dietitian Fund	56,348E
From Board of Embalmers and Funeral Directors' Fund	363,579E
From Endowed Care Cemetery Audit Fund	122,879E
From the Board of Geologist Registration Fund	71,215E
From Board of Registration for Healing Arts Fund	430,439E
From Hearing Instrument Specialist Fund	88,470E
From Interior Designer Council Fund	42,037E
From Marital and Family Therapists' Fund	17,211E
From Board of Nursing Fund	1,105,148E
From Missouri Board of Occupational Therapy Fund	138,152E
From Board of Optometry Fund	79,961E
From Board of Pharmacy Fund	274,379E
From Board of Podiatric Medicine Fund	27,269E
From State Committee of Psychologists Fund	348,058E
From Real Estate Appraisers Fund	419,574E
From Respiratory Care Practitioners Fund	137,692E
From State Committee of Interpreters Fund	48,475E
From Missouri Real Estate Commission Fund	540,206E
From Veterinary Medical Board Fund	171,129E
From Tattoo Fund	51,460E
From Acupuncturist Fund	8,298E
From Massage Therapy Fund	146,278E
From Athletic Agent Fund	1E
From Board of Cosmetology and Barber Examiners Fund	<u>1,622,527E</u>
Total	\$7,614,594

SECTION 7.295.— Funds are to be transferred, for funding new licensing activity pursuant to Section 620.106, RSMo, the following amounts to the Professional Registration Fees Fund

From Any Board Funds \$1E

SECTION 7.300.— Funds are to be transferred, for the reimbursement of funds loaned for new licensing activity pursuant to Section 620.106, RSMo, the following amount to the appropriate board fund

From Professional Registration Fees Fund \$1E

SECTION 7.305.— Funds are to be transferred pursuant to Section 329.028, RSMo, in the following amounts to the Board of Cosmetology and Barber Examiners Fund

From Board of Cosmetology Fund \$4,200,000E

From Board of Barber Examiners' Fund 650,000E

Total \$4,850,000

SECTION 7.700.— To the Department of Insurance

Personal Service.	\$4,509,107
Expense and Equipment.	<u>1,049,865</u>
From Department of Insurance Dedicated Fund (Not to exceed 125.50 F.T.E.). .	\$5,558,972

SECTION 7.705.— To the Department of Insurance

For market conduct and financial examinations of insurance companies

Personal Service.	\$5,384,531
Expense and Equipment.	<u>1,895,189</u>
From Insurance Examiners Fund (Not to exceed 77.00 F.T.E.).	\$7,279,720

SECTION 7.710.— To the Department of Insurance

For refunds

From Insurance Examiners Fund.	\$1E
From Department of Insurance Dedicated Fund.	<u>75,000E</u>
Total.	\$75,001

SECTION 7.715.— To the Department of Insurance

For the purpose of funding programs providing counseling on health insurance coverage and benefits to Medicare beneficiaries

From Federal Funds.	\$600,000
From Department of Insurance Dedicated Fund.	<u>200,000</u>
Total.	\$800,000

SECTION 7.800.— To the Department of Labor and Industrial Relations

For the Director and Staff

Personal Service.	\$59,267E
Expense and Equipment.	<u>1,544,500E</u>
From Unemployment Compensation Administration Fund	1,603,767

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation. . . .	5,870,948
Annual salary adjustment in accordance with Section 105.005, RSMo. . . .	<u>3,882</u>
From Department of Labor and Industrial Relations Administrative Fund. . . .	<u>5,874,830</u>
Total (Not to exceed 68.50 F.T.E.).	\$7,478,597

SECTION 7.805.— Funds are to be transferred, for payment of administrative costs, the following amounts to the Department of Labor and Industrial Relations Administrative Fund

From General Revenue Fund.	\$612,405
From Federal Funds	8,697,474
From Workers' Compensation Fund.	1,601,648
From Crime Victims' Compensation Fund.	66,080
From Special Employment Security Fund.	<u>290,061</u>
Total.	\$11,267,668

SECTION 7.810.— To the Department of Labor and Industrial Relations

For the Labor and Industrial Relations Commission

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation	
From General Revenue Fund.	\$74,167

Personal Service.	314,399
Annual salary adjustment in accordance with Section 105.005, RSMo	5,714
Expense and Equipment.	<u>53,460</u>
From Unemployment Compensation Administration Fund	373,573

Personal Service.	455,724
Annual salary adjustment in accordance with Section 105.005, RSMo	5,713
Expense and Equipment.	<u>77,061</u>
From Workers' Compensation Fund.	<u>538,498</u>
Total (Not to exceed 16.00 F.T.E.).	\$986,238

SECTION 7.815.— To the Department of Labor and Industrial Relations
For the Division of Labor Standards
For Administration

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation From General Revenue Fund.	\$987,866
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Personal Service.	50,199
Expense and Equipment.	<u>32,670</u>
From Federal Funds	82,869

Expense and Equipment From Child Labor Enforcement Fund.	<u>185,000</u>
Total (Not to exceed 23.50 F.T.E.).	\$1,255,735

SECTION 7.820.— To the Department of Labor and Industrial Relations
For the Division of Labor Standards
For safety and health programs

Personal Service and/or Expense and Equipment From General Revenue Fund.	\$71,078
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Personal Service.	780,146E
Expense and Equipment.	<u>298,078E</u>
From Federal Funds.	<u>1,078,224</u>
Total (Not to exceed 18.00 F.T.E.).	\$1,149,302

SECTION 7.825.— To the Department of Labor and Industrial Relations
For the Division of Labor Standards
For mine safety and health training programs

Personal Service and/or Expense and Equipment From General Revenue Fund.	\$62,270
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Personal Service.	273,561E
Expense and Equipment.	<u>82,985E</u>
From Federal Funds.	<u>356,546</u>
Total (Not to exceed 6.00 F.T.E.).	\$418,816

SECTION 7.830.— To the Department of Labor and Industrial Relations
For the Division of Workers' Compensation
For the purpose of funding Administration

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation. . . . \$9,306,493
 Funds are to be transferred from the Workers' Compensation
 Fund to the Kids' Chance Scholarship Fund. 50,000
 From Workers' Compensation Fund. 9,356,493

Expense and Equipment
 From Tort Victims' Compensation Fund 5,000

Personal Service
 From Crime Victims' Compensation Fund. 22,464
 Total (Not to exceed 168.25 F.T.E.). \$9,383,957

SECTION 7.835.— To the Department of Labor and Industrial Relations
 For the Division of Workers' Compensation
 For payment of special claims
 From Workers' Compensation - Second Injury Fund. \$60,506,625E

SECTION 7.840.— To the Department of Labor and Industrial Relations
 For the Division of Workers' Compensation
 For refunds for overpayment of any tax or any payment credited to the Second
 Injury Fund
 From Workers' Compensation - Second Injury Fund. \$250,000E

SECTION 7.845.— To the Department of Labor and Industrial Relations
 For the Division of Workers' Compensation
 For Crime Victims' Administration
 Expense and Equipment
 From Federal Funds. \$50,000

Personal Service. 284,657
 Expense and Equipment. 81,404
 From Crime Victims' Compensation Fund. 366,061
 Total (Not to exceed 9.00 F.T.E.). \$416,061

SECTION 7.850.— To the Department of Labor and Industrial Relations
 For the Division of Workers' Compensation
 For payments of claims to crime victims
 From Federal Funds. \$2,212,671E
 From Crime Victims' Compensation Fund. 6,987,329E
 Total. \$9,200,000

SECTION 7.855.— To the Department of Labor and Industrial Relations
 For the Division of Workers' Compensation
 For payments of claims to tort victims
 From Tort Victims' Compensation Fund. \$100,000E

SECTION 7.860.— To the Department of Labor and Industrial Relations
 For the Division of Employment Security
 Personal Service. \$27,641,606E
 Expense and Equipment. 5,691,352E
 From Unemployment Compensation Administration

Fund (Not to exceed 684.00 F.T.E.). \$33,332,958

SECTION 7.865.— To the Department of Labor and Industrial Relations

For the Division of Employment Security

For administration of programs authorized and funded by the United States Department of Labor, such as Disaster Unemployment Assistance (DUA), and provided that all funds shall be expended from discrete accounts and that no monies shall be expended for funding administration of these programs by the Division of Employment Security

From Unemployment Compensation Administration Fund. \$7,000,000E

SECTION 7.870.— To the Department of Labor and Industrial Relations

For the Division of Employment Security

Personal Service. \$475,548

Expense and Equipment 1,965,963E

For interest payments. 12,700,000E

From Special Employment Security Fund (Not to exceed 14.71 F.T.E.).. . . . \$15,141,511

SECTION 7.875.— To the Department of Labor and Industrial Relations

For the Division of Employment Security

From Special Employment Security Bond Proceeds. \$1E

SECTION 7.880.— To the Department of Labor and Industrial Relations

For the Division of Employment Security

For the payment of refunds set-off against debts as required by Section 143.786,
RSMo

From Debt Offset Escrow Fund. \$2,100,000E

SECTION 7.885.— To the Department of Labor and Industrial Relations

For the Missouri Commission on Human Rights

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund. \$654,355

Personal Service. 843,717E

Expense and Equipment. 161,866E

From Federal Funds. 1,005,583

Total (Not to exceed 41.95 F.T.E.).. . . . \$1,659,938

DEPARTMENT OF ECONOMIC DEVELOPMENT TOTALS

General Revenue Fund. \$43,885,380

Federal Funds. 158,714,384

Other Funds. 79,762,332

Total. \$282,362,096

DEPARTMENT OF INSURANCE TOTALS

Federal Funds. \$600,000

Other Funds. 13,038,692

Total. \$13,638,692

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS TOTALS

General Revenue Fund. \$2,462,141

Federal Funds.	55,793,665
Other Funds.	<u>95,166,771</u>
Total.	\$153,422,577

Approved June 29, 2006

HB 1008 [CCS SCS HB 1008]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: Department of Public Safety.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Public Safety and the Office of Administration, and several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to transfer money among certain funds for the period beginning July 1, 2006 and ending June 30, 2007.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated, for the period beginning July 1, 2006 and ending June 30, 2007, as follows:

SECTION 8.005.— To the Department of Public Safety

For the Office of the Director

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation. . . .	\$1,180,316
Annual salary adjustment in accordance with Section 105.005, RSMo. . . .	<u>3,890</u>
From General Revenue Fund.	1,184,206
From Federal Funds	1,048,557
From Services to Victims Fund.	26,730

Personal Service.	151,690
Expense and Equipment.	<u>1,223,190</u>
From Crime Victims' Compensation Fund.	1,374,880

Expense and Equipment	
From Missouri Crime Prevention Information and Programming Fund.	50,000E
From Antiterrorism Fund.	<u>5,000</u>
Total (Not to exceed 36.00 F.T.E.).	\$3,689,373

SECTION 8.010.— To the Department of Public Safety

For the Office of the Director

For operational maintenance and repairs for state-owned facilities

From Facilities Maintenance Reserve Fund.	\$185,889
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SECTION 8.015.— To the Department of Public Safety
 For the Office of the Director
 For the Juvenile Justice Delinquency Prevention Program
 From Federal Funds. \$1,799,925E

SECTION 8.020.— To the Department of Public Safety
 For the Office of the Director
 For the Juvenile Justice Accountability Incentive Block Grant Program
 From Federal Funds. \$3,395,000E

SECTION 8.025.— To the Department of Public Safety
 For the Office of the Director
 For the Narcotics Control Assistance Program and Justice Assistance Grants
 From Federal Funds. \$8,800,000E

SECTION 8.027.— To the Department of Public Safety
 For the Office of the Director
 For the purpose of funding grants to local law enforcement internet sex crimes task
 forces contingent upon passage of legislation by the General Assembly in 2006
 From General Revenue. \$250,000

SECTION 8.030.— To the Department of Public Safety
 For the Office of the Director
 For the Services to Victims Program
 From Services to Victims Fund. \$5,000,000E

For counseling and other support services for crime victims
 From Crime Victims' Compensation Fund. 50,000
 Total. \$5,050,000

SECTION 8.035.— To the Department of Public Safety
 For the Office of the Director
 For the Victims of Crime Program
 From Federal Funds. \$8,000,000E

SECTION 8.040.— To the Department of Public Safety
 For the Office of the Director
 For the Violence Against Women Program
 From Federal Funds. \$2,499,500E

SECTION 8.045.— To the Department of Public Safety
 For the purpose of funding regional crime labs on a matching reimbursement
 basis of one dollar of state funding for each dollar of regional funding
 provided through fees or contributions that may be collected from local
 law enforcement agencies in Missouri up to the limit of this appropriation.
 Support of any non-law enforcement agency, any agency or institution of
 state government, any agency funded principally through federal entitlement
 or grant, or any law enforcement agency in a metropolitan area having a
 population exceeding one hundred thousand shall not be included in
 determining the regional funding used to calculate the amount of
 matching state funds. \$145,686

For the purpose of funding the Missouri Southern State University Crime Laboratory on a matching reimbursement basis of one dollar of state funding for each dollar of regional funding provided through fees or contributions that may be collected from local law enforcement agencies in Missouri up to the limit of this appropriation. Support of any non-law enforcement agency, any agency or institution of state government, any agency funded principally through federal entitlement or grant, or any law enforcement agency in a metropolitan area having a population exceeding one hundred thousand shall not be included in determining the regional funding used to calculate the amount of matching state funds. The lab must report quarterly to the Department of Public Safety on their progress towards achieving accreditation by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board 147,000
 From General Revenue Fund. \$292,686

SECTION 8.050.— To the Department of Public Safety
 For the National Forensic Sciences Improvement Act Program
 From Federal Funds. \$70,000E

SECTION 8.055.— To the Department of Public Safety
 For the State Forensic Laboratory Program
 From State Forensic Laboratory Fund. \$366,000E

SECTION 8.060.— To the Department of Public Safety
 For the Office of the Director
 For the Residential Substance Abuse Treatment Program
 From Federal Funds. \$250,000E

SECTION 8.065.— To the Department of Public Safety
 For the Office of the Director
 For peace officer training
 From Peace Officer Standards and Training Commission Fund. \$1,400,000E

SECTION 8.067.— To the Department of Public Safety
 For the Missouri Public Safety Officer Medal of Valor Act
 From General Revenue Fund. \$5,000

SECTION 8.068.— To the Department of Public Safety
 For the Office of the Director
 For the Missouri Sheriff Methamphetamine Relief Taskforce (MoSMART) Program
 From MoSMART Fund. \$250,000

SECTION 8.069.— Funds are to be transferred out of the State Treasury, chargeable to the General Revenue Fund to the MoSMART Fund
 From General Revenue. \$250,000

SECTION 8.070.— To the Department of Public Safety
 For the Capitol Police
 Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation
 From General Revenue Fund (Not to exceed 37.00 F.T.E.). \$1,413,426

SECTION 8.075.— To the Department of Public Safety

For the State Highway Patrol

For Administration

Expense and Equipment

From General Revenue Fund..... \$16,279

For the High-Intensity Drug Trafficking Area Program

From Federal Funds 1,500,000E

Personal Service. 5,720,990

Expense and Equipment..... 497,061

From State Highways and Transportation Department Fund 6,218,051

Personal Service

From Criminal Record System Fund 38,942

Expense and Equipment

From Gaming Commission Fund..... 4,865

Total (Not to exceed 120.00 F.T.E.)..... \$7,778,137

SECTION 8.080.— To the Department of Public Safety

For the State Highway Patrol

For fringe benefits, including retirement contributions for members of the Missouri

Department of Transportation and Highway Patrol Employees' Retirement System,
and insurance premiums

Personal Service. \$4,274,164E

Expense and Equipment..... 531,784E

From General Revenue Fund..... 4,805,948

Personal Service. 1,344,160E

Expense and Equipment..... 100,333E

From Federal Funds 1,444,493

Personal Service. 92,530E

Expense and Equipment..... 12,693E

From Gaming Commission Fund..... 105,223

Personal Service. 46,054,325E

Expense and Equipment 5,633,864E

From State Highways and Transportation Department Fund 51,688,189

Personal Service. 1,758,565E

Expense and Equipment..... 218,512E

From Criminal Record System Fund 1,977,077

Personal Service. 59,160E

Expense and Equipment..... 5,545E

From Highway Patrol Academy Fund 64,705

Personal Service. 3,749E

Expense and Equipment..... 471E

From Highway Patrol's Motor Vehicle and Aircraft Revolving Fund.	4,220
Personal Service.	71,649E
Expense and Equipment.	<u>9,660E</u>
From DNA Profiling Analysis Fund	81,309
Personal Service.	12,350E
Expense and Equipment.	<u>1,874E</u>
From Highway Patrol Traffic Records Fund	14,224
Personal Service.	18,662E
Expense and Equipment.	<u>2,486E</u>
From Criminal Justice Network and Technology Revolving Fund.	21,148
Total.	<u>\$60,206,536</u>

SECTION 8.085. — To the Department of Public Safety

For the State Highway Patrol

For the Enforcement Program

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.	\$7,583,320
From State Highways and Transportation Department Fund	63,851,975

Personal Service.	2,693,823
For receiving and expending donations and federal funds provided that the General Assembly shall be notified of the source of any new funds and the purpose for which they shall be expended, in writing, prior to expenditure of said funds	
Expense and Equipment	<u>9,609,186E</u>
From Federal Funds	12,303,009

For the purpose of funding The Missouri Information Analysis Center

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation

From Federal Funds	753,491E
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All expenditures must be in compliance with the United States Department of Justice equitable sharing program guidelines

Expense and Equipment

From Federal Drug Seizure Fund	878,187
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Personal Service.	2,876,622
Expense and Equipment	1,382,257

National Criminal Record Reviews.	<u>2,400,000E</u>
From Criminal Record System Fund	6,658,879

Personal Service.	30,826
Expense and Equipment.	<u>136,128</u>
From Gaming Commission Fund.	166,954
Personal Service.	7,217
Expense and Equipment.	<u>670,500</u>
From Highway Patrol's Motor Vehicle and Aircraft Revolving Fund.	677,717

Personal Service.	30,950
Expense and Equipment.	<u>92,800</u>
From Highway Patrol Traffic Records Fund.	123,750
Total (Not to exceed 1,386.00 F.T.E.).	<u>\$92,997,282</u>

SECTION 8.090.— To the Department of Public Safety

For the State Highway Patrol

For gasoline expenses for State Highway Patrol vehicles, including aircraft and

Gaming Commission vehicles

Expense and Equipment

From General Revenue Fund.	\$213,994
From Gaming Commission Fund.	246,329
From State Highways and Transportation Department Fund.	<u>2,449,031</u>
Total.	<u>\$2,909,354</u>

SECTION 8.095.— To the Department of Public Safety

For the State Highway Patrol

For purchase of vehicles and aircraft for the State Highway Patrol and the

Gaming Commission

Expense and Equipment

From State Highways and Transportation Department Fund.	\$5,629,546
From Highway Patrol's Motor Vehicle and Aircraft Revolving Fund.	7,578,840
From Gaming Commission Fund.	<u>474,571</u>
Total.	<u>\$13,682,957</u>

SECTION 8.100.— To the Department of Public Safety

For the State Highway Patrol

For Crime Labs

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.	\$1,733,660
From DNA Profiling Analysis Fund	1,537,086

Personal Service.	209,501
Expense and Equipment	<u>2,636,223E</u>
For grants to St. Louis City and St. Louis County Forensic DNA Labs.	<u>877,698</u>
From Federal Funds	<u>3,723,422</u>

Personal Service.	2,970,390
Expense and Equipment.	<u>536,201</u>
From State Highways and Transportation Department Fund	<u>3,506,591</u>

Personal Service.	95,254
Expense and Equipment.	<u>3,600</u>
From Criminal Record System Fund	<u>98,854</u>

Expense and Equipment	
From State Forensic Laboratory Fund.	<u>190,000E</u>
Total (Not to exceed 84.00 F.T.E.).	<u>\$10,789,613</u>

SECTION 8.105.— To the Department of Public Safety

For the State Highway Patrol

For the Law Enforcement Academy

Expense and Equipment	
From Federal Funds.	\$60,000

Personal Service.	153,953
Expense and Equipment.	<u>85,235</u>
From Gaming Commission Fund.	239,188

Personal Service.	1,331,685
Expense and Equipment.	<u>94,672</u>
From State Highways and Transportation Department Fund	1,426,357

Personal Service.	90,542
Expense and Equipment.	<u>627,974</u>
From Highway Patrol Academy Fund.	718,516
Total (Not to exceed 36.00 F.T.E.).	<u>\$2,444,061</u>

SECTION 8.110.— To the Department of Public Safety

For the State Highway Patrol

For Vehicle and Driver Safety

Expense and Equipment	
From Federal Funds.	\$600,000E

Personal Service.	9,463,425
Expense and Equipment.	<u>709,702</u>
From State Highways and Transportation Department Fund	10,173,127

Expense and Equipment	
From Highway Patrol Inspection Fund.	<u>90,000E</u>
Total (Not to exceed 287.00 F.T.E.).	<u>\$10,863,127</u>

SECTION 8.115.— To the Department of Public Safety

For the State Highway Patrol

For refunding unused motor vehicle inspection stickers

From State Highways and Transportation Department Fund.	\$40,000E
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SECTION 8.120.— To the Department of Public Safety

For the State Highway Patrol

For Technical Services

Personal Service.	\$362,605
Expense and Equipment.	<u>63,312</u>
From General Revenue Fund.	425,917

Personal Service.	161,566
Expense and Equipment.	<u>1,897,969</u>
From Federal Funds	2,059,535

Personal Service.	11,761,378
Expense and Equipment.	<u>9,302,711</u>
From State Highways and Transportation Department Fund	21,064,089

Personal Service.	474,597
Expense and Equipment.	<u>1,348,866</u>
From Criminal Record System Fund	1,823,463

Personal Service	
From Gaming Commission Fund.	19,325

Personal Service.	40,860
Expense and Equipment.	<u>1,500,000E</u>
From Criminal Justice Network and Technology Revolving Fund.	<u>1,540,860</u>
Total (Not to exceed 265.50 F.T.E.).	\$26,933,189

SECTION 8.122. — To the Department of Public Safety

For the Office of Administration

For the purpose of funding building maintenance and repair service contracts

Expense and Equipment	
From State Highways and Transportation Fund.	\$11,269

For the purpose of funding fuel and utilities

Expense and Equipment	
From General Revenue Fund.	119,481
From Federal Drug Seizure Fund	9,357
From State Highways and Transportation Fund.	762,737
From Criminal Record System Fund	58
From Gaming Commission Fund.	46,877
From Highway Patrol Academy Fund.	<u>25,286</u>
Total.	\$975,065

SECTION 8.125. — To the Department of Public Safety

For the State Highway Patrol

For emergency expense reimbursement

Expense and Equipment	
From Highway Patrol Expense Fund.	\$20,000E

SECTION 8.130. — To the Department of Public Safety

For the State Highway Patrol

For uniforms and uniform item purchases

Expense and Equipment	
From Highway Patrol Expense Fund.	\$15,000E

SECTION 8.135. — To the Department of Public Safety

For the State Highway Patrol

For payment of death and other benefits

Expense and Equipment	
From Highway Patrol Expense Fund.	\$30,000E

SECTION 8.140. — To the Department of Public Safety

For the State Water Patrol

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.	\$6,207,469
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Personal Service.....	391,598
Expense and Equipment	<u>1,304,504E</u>
From Federal Funds	1,696,102

All expenditures must be in compliance with the United States Department of Justice Equitable Sharing Program guidelines

Expense and Equipment	
From Federal Drug Seizure Fund.	<u>20,000</u>
Total (Not to exceed 127.50 F.T.E.).	\$7,923,571

SECTION 8.142.— Funds are to be transferred out of the State Treasury, chargeable to the Missouri State Water Patrol Fund, to the General Revenue Fund

From Missouri State Water Patrol Fund..	\$714,597
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SECTION 8.145.— To the Department of Public Safety
For the Division of Alcohol and Tobacco Control

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.	\$2,653,484
From Federal Funds	456,701
From Healthy Families Trust Fund - Tobacco Prevention Account..	<u>138,572</u>
Total (Not to exceed 57.00 F.T.E.).	\$3,248,757

SECTION 8.150.— To the Department of Public Safety

For the Division of Fire Safety

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.	\$1,916,893
From Elevator Safety Fund.	425,270
From Boiler and Pressure Vessels Safety Fund	381,099

Expense and Equipment

From Federal Funds.	<u>311,270E</u>
Total (Not to exceed 61.92 F.T.E.).	\$3,034,532

SECTION 8.155.— To the Department of Public Safety

For the Division of Fire Safety

For firefighter training contracted services

Expense and Equipment

From General Revenue Fund.	\$215,908
From Chemical Emergency Preparedness Fund.	100,000
From Fire Education Fund	<u>150,000E</u>
Total.	\$465,908

SECTION 8.160.— To the Department of Public Safety

For the Missouri Veterans' Commission

For Administration and Service to Veterans

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.	\$2,378,960
From Missouri Veterans' Homes Fund	613,281
From Veterans' Commission Capital Improvement Trust Fund	1,540,274

Expense and Equipment	
From Veterans Trust Fund	24,800
From Federal and Other Funds.	<u>1E</u>
Total (Not to exceed 102.77 F.T.E.).	\$4,557,316

SECTION 8.165.— To the Department of Public Safety

For the Missouri Veterans' Commission

For Veterans' Service Officer Programs

From Veterans' Commission Capital Improvement Trust Fund.	\$750,000
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SECTION 8.170.— To the Department of Public Safety

For the Missouri Veterans' Commission

For Missouri Veterans' Homes

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.	\$24,607,166
From Missouri Veterans' Homes Fund	33,833,156

Expense and Equipment	
From Veterans Trust Fund	52,500

Personal Service

From Veterans' Commission Capital Improvement Trust Fund	26,208
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For the purpose of paying overtime to nonexempt state employees as required by
Section 105.935, RSMo, and/or for otherwise authorized Personal Service
expenditures in lieu of such overtime payments

From General Revenue Fund.	110,392
From Missouri Veterans' Homes Fund.	<u>4,901,029</u>
Total (Not to exceed 1,537.48 F.T.E.).	\$63,530,451

SECTION 8.172.— To the Department of Public Safety

For the Office of Administration

For the purpose of funding fuel and utilities

Expense and Equipment.	\$2,200,462
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For the purpose of funding building maintenance and repair service contracts

Expense and Equipment.	<u>43,101</u>
From General Revenue Fund.	\$2,243,563

SECTION 8.175.— To the Department of Public Safety

For the Gaming Commission

For the Divisions of Gaming and Bingo

Personal Service.	\$13,065,921
Expense and Equipment	1,938,115
For National Council of Legislators from Gaming States Dues.	<u>3,000</u>
From Gaming Commission Fund.	15,007,036

Expense and Equipment

From Compulsive Gamblers Fund.	<u>40,000</u>
Total (Not to exceed 229.00 F.T.E.).	\$15,047,036

SECTION 8.180.— To the Department of Public Safety

For the Gaming Commission

For fringe benefits, including retirement contributions for members of the Missouri

Department of Transportation and Highway Patrol Employees' Retirement

System, and insurance premiums for State Highway Patrol employees

assigned to work under the direction of the Gaming Commission

Personal Service. \$4,809,328E

Expense and Equipment. 267,317E

From Gaming Commission Fund. \$5,076,645

SECTION 8.185.— To the Department of Public Safety

For the Gaming Commission

For refunding any overpayment or erroneous payment of any amount that is credited

to the Gaming Commission Fund

From Gaming Commission Fund. \$15,000E

SECTION 8.190.— To the Department of Public Safety

For the Gaming Commission

For refunding any overpayment or erroneous payment of any amount received for

bingo fees

From Bingo Proceeds for Education Fund. \$5,000E

SECTION 8.195.— To the Department of Public Safety

For the Gaming Commission

For breeder incentive payments

From Missouri Breeders Fund. \$5,000

SECTION 8.200.— To the Adjutant General

For Missouri Military Forces Administration

Personal Service and/or Expense and Equipment, provided that not more than

twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund. \$1,334,287

Personal Service

From Federal Funds 30,000

All expenditures must be in compliance with the United States Department of Justice

Equitable Sharing Program guidelines

Expense and Equipment

From Federal Drug Seizure Fund 33,703

Expense and Equipment

From Missouri National Guard Trust Fund. 11,000

Total (Not to exceed 37.68 F.T.E.). \$1,408,990

SECTION 8.205.— To the Adjutant General

For activities in support of the Guard, including the National Guard Tuition Assistance

Program and the Military Honors Program

Personal Service and/or Expense and Equipment, provided that not more than

twenty percent (20%) flexibility is allowed between each appropriation

From the Missouri National Guard Trust Fund (Not to exceed 42.40 F.T.E.). . . \$5,122,574

SECTION 8.210.— To the Adjutant General

For the Veterans Recognition Program

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From Veterans' Commission Capital Improvement Trust

Fund (Not to exceed 2.00 F.T.E.). \$80,372

SECTION 8.215.— To the Adjutant General

For operational maintenance and repairs for state- and federally-owned facilities

From Facilities Maintenance Reserve Fund. \$399,881

SECTION 8.217.— To the Department of Public Safety

For the Office of Administration

For the purpose of funding fuel and utilities

Expense and Equipment

From General Revenue Fund. \$695,000

From Federal Funds 2,624,120E

From Missouri National Guard Trust Fund. 446,828

Total. \$3,765,948

SECTION 8.220.— To the Adjutant General

For Missouri Military Forces Field Support

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund. \$1,124,700

Personal Service. 17,124

Fuel and Utilities. 10,488E

From Federal Funds 27,612

Fuel and Utilities

From Adjutant General Revolving Fund. 26,000

Total (Not to exceed 38.32 F.T.E.). \$1,178,312

SECTION 8.225.— To the Adjutant General

For fuel and utility expenses at armories from armory rental fees

Expense and Equipment

From Adjutant General Revolving Fund. \$25,000E

SECTION 8.230.— To the Adjutant General

For the Missouri Military Family Relief Program

Expense and Equipment. \$10,500

For grants to family members of the National Guard and reservists who are in
financial need 189,500E

From Missouri Military Family Relief Fund. \$200,000

SECTION 8.235.— To the Adjutant General

For training site operating costs

Expense and Equipment

From Missouri National Guard Training Site Fund. \$244,800E

SECTION 8.240.— To the Adjutant General

For Missouri Military Forces Contract Services

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund. \$543,559

From Federal Funds 18,000,599E

For refunds of federal overpayments to the state for the Contract Services Program

From Federal Funds 30,000E

Personal Service

From Missouri National Guard Training Site Fund. 17,940

Expense and Equipment

From Missouri National Guard Trust Fund. 231,249

Total (Not to exceed 403.43 F.T.E.). \$18,823,347

SECTION 8.245.— To the Adjutant General

For the Office of Air Search and Rescue

Expense and Equipment

From General Revenue Fund. \$16,978

SECTION 8.250.— To the Adjutant General

For the State Emergency Management Agency

For Administration and Emergency Operations

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund. \$1,624,319

Personal Service. 991,927

Expense and Equipment. 746,631

From Federal Funds 1,738,558

Personal Service. 146,847

Expense and Equipment. 86,892

From Chemical Emergency Preparedness Fund. 233,739

Total (Not to exceed 57.76 F.T.E.). \$3,596,616

SECTION 8.255.— To the Adjutant General

For the State Emergency Management Agency

For the Community Right-to-Know Act

From Chemical Emergency Preparedness Fund. \$650,000

For distribution of funds to local emergency planning commissions to implement
the federal Hazardous Materials Transportation Uniform Safety Act of 1990

From Federal Funds. 346,890

Total. \$996,890

SECTION 8.260.— To the Adjutant General

For the State Emergency Management Agency

For all allotments, grants, and contributions from federal and other sources that
are deposited in the State Treasury for administrative and training expenses

of the State Emergency Management Agency
From Federal Funds. \$1,500,000E

For all allotments, grants, and contributions from federal and other sources that
are deposited in the State Treasury for the use of the State Emergency
Management Agency for alleviating distress from disasters
From Missouri Disaster Fund. 502,000E

To provide matching funds for federal grants and for emergency assistance expenses
of the State Emergency Management Agency as provided in Section 44.032, RSMo
From General Revenue Fund. 1E

For all allotments, grants, and contributions from federal and other sources that are
deposited in the State Treasury for first responder training programs
From Federal Funds 5,000,000E
Total. \$7,002,001

SECTION 8.265.— Funds are to be transferred out of the State Treasury, chargeable
to the Veterans' Commission Capital Improvement Trust Fund, to the Veterans'
Homes Fund
From Veterans' Commission Capital Improvement Trust Fund. \$500,000E

SECTION 8.270.— Funds are to be transferred out of the State Treasury, chargeable
to the Gaming Commission Fund, to the Veterans' Commission Capital
Improvement Trust Fund
From Gaming Commission Fund. \$6,000,000E

SECTION 8.275.— Funds are to be transferred out of the State Treasury, chargeable
to the Gaming Commission Fund, to the Missouri National Guard Trust Fund
From Gaming Commission Fund. \$4,000,000E

SECTION 8.280.— Funds are to be transferred out of the State Treasury, chargeable
to the Gaming Commission Fund, to the Missouri College Guarantee Fund
From Gaming Commission Fund. \$5,000,000E

SECTION 8.285.— Funds are to be transferred out of the State Treasury, chargeable
to the Gaming Commission Fund, to the Early Childhood Development,
Education and Care Fund
From Gaming Commission Fund. \$30,320,000E

SECTION 8.290.— Funds are to be transferred out of the State Treasury, chargeable
to the Gaming Commission Fund, to the Compulsive Gamblers Fund
From Gaming Commission Fund. \$489,850

SECTION 8.295.— Funds are to be transferred out of the State Treasury, chargeable
to the Highway Patrol Inspection Fund, to the State Road Fund
From Highway Patrol Inspection Fund. \$1E

BILL TOTALS

General Revenue Fund. \$63,966,596
Federal Funds. 81,482,031
Other Funds. 275,041,211

Total. \$420,489,838

Approved June 29, 2006

HB 1009 [CCS SCS HB 1009]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: Department of Corrections.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Corrections and the Office of Administration and several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the period beginning July 1, 2006 and ending June 30, 2007.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2006 and ending June 30, 2007, as follows:

SECTION 9.005.— To the Department of Corrections

For the purpose of funding the Office of the Director

Personal Service and/or Expense and Equipment provided that not more than twenty percent (20%) is allowed between each appropriation.. . . . \$2,956,254

Annual salary adjustment in accordance with Section 105.005, RSMo. 3,882

From General Revenue Fund (Not to exceed 79.74 F.T.E.). \$2,960,136

SECTION 9.007.— To the Department of Corrections

For the Office of Administration

For the purpose of funding building maintenance and repair service contracts

Expense and Equipment

From General Revenue Fund. \$15,709

SECTION 9.010.— To the Department of Corrections

For the Office of the Director

For the purpose of funding all grants and contributions of funds from the federal government or from any other source which may become available between sessions of the general assembly

Personal Service.. . . . \$2,780,321E

Expense and Equipment 5,356,718E

From Federal Funds (Not to exceed 70.50 F.T.E.). \$8,137,039

SECTION 9.015.— To the Department of Corrections

For the Division of Adult Institutions

For Public School Retirement contributions
 From General Revenue Fund..... \$1E

SECTION 9.020.— To the Department of Corrections

For the Office of the Director

For the purpose of funding costs associated with increased offender population
 department-wide, including, but not limited to, funding for personal service,
 expense and equipment, contractual services, repairs, renovations, capital
 improvements, and compensatory time

From General Revenue Fund..... \$5,377,003
 From Inmate Revolving Fund. 415,863
 Total. \$5,792,866

SECTION 9.025.— To the Department of Corrections

For the Office of the Director

For the purpose of funding the expense of telecommunications department-wide
 Expense and Equipment

From General Revenue Fund..... \$2,239,422
 From Working Capital Revolving Fund. 256,400
 Total. \$2,495,822

SECTION 9.027.— To the Department of Corrections

For the Office of the Director

For the purpose of funding restitution payments for those wrongly convicted

From General Revenue Fund..... \$109,500

SECTION 9.030.— To the Department of Corrections

For the Division of Human Services

Personal Service. \$8,883,432
 Expense and Equipment..... 204,119
 From General Revenue Fund..... 9,087,551

Personal Service. 333,238
 Expense and Equipment..... 63,049
 From Inmate Revolving Fund. 396,287
 Total (Not to exceed 277.16 F.T.E.). \$9,483,838

SECTION 9.035.— To the Department of Corrections

For the Division of Human Services

For the purpose of funding general services

Expense and Equipment

From General Revenue Fund..... \$408,432

SECTION 9.040.— To the Department of Corrections

For the Division of Human Services

For the purchase, transportation, and storage of food and food service items, and
 operational expenses of food preparation facilities at all correctional institutions

Expense and Equipment

From General Revenue Fund..... \$24,675,819
 From Federal Funds. 450,000
 Total. \$25,125,819

SECTION 9.045.— To the Department of Corrections

For the Division of Human Services

For the purpose of funding the operational maintenance and repairs for state-owned facilities

Expense and Equipment

From Facilities Maintenance Reserve Fund. \$1,218,750

SECTION 9.050.— To the Department of Corrections

For the Office of Administration

For the Division of Human Services

For the purpose of funding the expense of fuel and utilities department-wide

Expense and Equipment

From General Revenue Fund. \$26,858,285

From Working Capital Revolving Fund. 1,487,661

Total. \$28,345,946

SECTION 9.055.— To the Board of Public Buildings

For the Office of Administration

For the Department of Corrections

For payment of rent by the Department of Corrections to the Board for the Farmington Correctional Center and the Fulton Reception and Diagnostic Center. Funds to be used by the Board for fuel and utilities

Expense and Equipment

From General Revenue Fund. \$4,561,609

SECTION 9.060.— To the Department of Corrections

For the Division of Human Services

For the purpose of funding training costs department-wide

Expense and Equipment

From General Revenue Fund. \$1,566,720

SECTION 9.065.— To the Department of Corrections

For the Division of Human Services

For the purpose of funding employee health and safety

Expense and Equipment

From General Revenue Fund. \$432,000

SECTION 9.070.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the expenses and small equipment purchased at any of the adult institutions department-wide

Expense and Equipment

From General Revenue Fund. \$19,140,033

SECTION 9.075.— To the Department of Corrections

For the Division of Human Services

For the purpose of paying overtime to nonexempt state employees as required by Section 105.935, RSMo, and/or for otherwise authorized personal service expenditures in lieu of such overtime payments

From General Revenue Fund. \$9,308,726

From Federal and Other Funds.	3E
Total.	\$9,308,729

SECTION 9.080.— To the Department of Corrections

For the purpose of funding the Division of Adult Institutions

For the Central Office

Personal Service. \$1,414,573

Expense and Equipment. 178,464

From General Revenue Fund (Not to exceed 40.70 F.T.E.). \$1,593,037

SECTION 9.085.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the inmate wage and discharge costs at all correctional facilities

Expense and Equipment

From General Revenue Fund. \$3,968,244

SECTION 9.090.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Jefferson City Correctional Center

Personal Service

From General Revenue Fund (Not to exceed 526.41 F.T.E.). \$15,566,596

SECTION 9.095.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Central Missouri Correctional Center at Jefferson City

Personal Service

From General Revenue Fund (Not to exceed 20.00 F.T.E.). \$1,180,211

SECTION 9.100.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Women's Eastern Reception and Diagnostic Center at Vandalia

Personal Service

From General Revenue Fund (Not to exceed 462.00 F.T.E.). \$13,462,208

SECTION 9.105.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Ozark Correctional Center at Fordland

Personal Service

From General Revenue Fund. \$4,636,239

From Inmate Revolving Fund. 310,013

Total (Not to exceed 160.39 F.T.E.). \$4,946,252

SECTION 9.110.— To the Department of Corrections

For the Division of Adult Institutions

For the purpose of funding the Moberly Correctional Center

Personal Service

From General Revenue Fund (Not to exceed 398.52 F.T.E.). \$11,994,647

SECTION 9.115.— To the Department of Corrections

For the Division of Adult Institutions
 For the purpose of funding the Alcoa Correctional Center at Jefferson City
 Personal Service
 From General Revenue Fund (Not to exceed 328.01 F.T.E.) \$9,633,850

SECTION 9.120.— To the Department of Corrections
 For the Division of Adult Institutions
 For the purpose of funding the Missouri Eastern Correctional Center at Pacific
 Personal Service
 From General Revenue Fund (Not to exceed 318.88 F.T.E.) \$9,363,209

SECTION 9.125.— To the Department of Corrections
 For the Division of Adult Institutions
 For the purpose of funding the Chillicothe Correctional Center
 Personal Service
 From General Revenue Fund. \$5,494,417

 From Inmate Revolving Fund. 26,231
 Total (Not to exceed 184.49 F.T.E.) \$5,520,648

SECTION 9.130.— To the Department of Corrections
 For the Division of Adult Institutions
 For the purpose of funding the Boonville Correctional Center
 Personal Service
 From General Revenue Fund. \$9,068,503
 From Inmate Revolving Fund. 31,323
 Total (Not to exceed 303.86 F.T.E.) \$9,099,826

SECTION 9.135.— To the Department of Corrections
 For the Division of Adult Institutions
 For the purpose of funding the Farmington Correctional Center
 Personal Service
 From General Revenue Fund (Not to exceed 569.76 F.T.E.) \$17,654,607

SECTION 9.140.— To the Board of Public Buildings
 For the purpose of funding payment of rent by the Department of Corrections
 (Division of Adult Institutions) to the Board
 For the Farmington Correctional Center
 Funds to be used by the Board for Personal Service. \$1,169,563
 Funds to be used by the Board for Expense and Equipment. 175,547
 From General Revenue Fund (Not to exceed 36.76 F.T.E.) \$1,345,110

SECTION 9.145.— To the Department of Corrections
 For the Division of Adult Institutions
 For the purpose of funding the Western Missouri Correctional Center at Cameron
 Personal Service
 From General Revenue Fund (Not to exceed 487.54 F.T.E.) \$14,937,001

SECTION 9.150.— To the Department of Corrections
 For the Division of Adult Institutions
 For the purpose of funding the Potosi Correctional Center

Personal Service
From General Revenue Fund (Not to exceed 354.78 F.T.E.).. . . . \$10,709,219

SECTION 9.155.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Fulton Reception and Diagnostic Center
Personal Service
From General Revenue Fund (Not to exceed 401.16 F.T.E.).. . . . \$11,736,353

SECTION 9.160.— To the Board of Public Buildings
For the purpose of funding payment of rent by the Department of Corrections
(Division of Adult Institutions) to the Board
For the Fulton Reception and Diagnostic Center
Funds to be used by the Board for Personal Service. \$639,988
Funds to be used by the Board for Expense and Equipment.. . . . 48,533
From General Revenue Fund (Not to exceed 20.90 F.T.E.). \$688,521

SECTION 9.165.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Tipton Correctional Center
Personal Service
From General Revenue Fund.. . . . \$9,394,310
From Inmate Revolving Fund. 83,143
Total (Not to exceed 319.64 F.T.E.). \$9,477,453

SECTION 9.170.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Western Reception and Diagnostic Center at
St. Joseph
Personal Service
From General Revenue Fund (Not to exceed 529.00 F.T.E.).. . . . \$15,044,710

SECTION 9.175.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Maryville Treatment Center
Personal Service
From General Revenue Fund (Not to exceed 194.00 F.T.E.).. . . . \$5,525,993

SECTION 9.180.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Crossroads Correctional Center at Cameron
Personal Service
From General Revenue Fund (Not to exceed 392.00 F.T.E.).. . . . \$11,100,680

SECTION 9.185.— To the Department of Corrections
For the Division of Adult Institutions
For the purpose of funding the Northeast Correctional Center at Bowling Green
Personal Service
From General Revenue Fund (Not to exceed 540.00 F.T.E.).. . . . \$15,192,744

SECTION 9.190.— To the Department of Corrections
For the Division of Adult Institutions

For the purpose of funding the Eastern Reception and Diagnostic Center at
 Bonne Terre
 Personal Service
 From General Revenue Fund (Not to exceed 671.00 F.T.E.) \$18,841,731

SECTION 9.195.— To the Department of Corrections
 For the Division of Adult Institutions
 For the purpose of funding the South Central Correctional Center at Licking
 Personal Service
 From General Revenue Fund (Not to exceed 424.00 F.T.E.) \$11,917,588

SECTION 9.200.— To the Department of Corrections
 For the Division of Adult Institutions
 For the purpose of funding the Southeast Correctional Center at Charleston
 Personal Service
 From General Revenue Fund (Not to exceed 419.00 F.T.E.) \$11,644,042

SECTION 9.205.— To the Department of Corrections
 For the Division of Offender Rehabilitative Services
 For the purpose of funding the Central Office
 Personal Service \$1,921,471
 Expense and Equipment 59,995
 From General Revenue Fund (Not to exceed 44.15 F.T.E.) \$1,981,466

SECTION 9.210.— To the Department of Corrections
 For the Division of Offender Rehabilitative Services
 For the purpose of funding contractual services for offender physical and
 mental health care
 From General Revenue Fund. \$102,279,361

Expense and Equipment
 From Federal Funds. 1E
 Total \$102,279,362

SECTION 9.215.— To the Department of Corrections
 For the Division of Offender Rehabilitative Services
 For the purpose of funding medical equipment
 Expense and Equipment
 From General Revenue Fund. \$239,523

SECTION 9.220.— To the Department of Corrections
 For the Division of Offender Rehabilitative Services
 For the purpose of substance abuse services
 From General Revenue Fund. \$6,245,318

Expense and Equipment
 From Correctional Substance Abuse Earnings Fund. 264,600
 Total (Not to exceed 111.50 F.T.E.) \$6,509,918

SECTION 9.225.— To the Department of Corrections
 For the Division of Offender Rehabilitative Services

For the purpose of toxicology testing
 Expense and Equipment
 From General Revenue Fund. \$886,331

SECTION 9.230.— To the Department of Corrections

For the Division of Offender Rehabilitative Services
 For the purposes of offender education
 Personal Service. \$9,012,982
 Expense and Equipment. 2,678,065
 From General Revenue Fund. 11,691,047
 Expense and Equipment
 From Working Capital Revolving Fund. 350,000
 Total (Not to exceed 259.50 F.T.E.). \$12,041,047

SECTION 9.235.— To the Department of Corrections

For the Division of Offender Rehabilitative Services
 For the purpose of funding all costs associated with the Offender Reentry Program
 Expense and Equipment
 From General Revenue Fund. \$383,096

SECTION 9.237.— To the Department of Corrections

For the Division of Offender Rehabilitative Services
 For the purpose of funding a re-entry pilot project in the city of St. Louis
 From General Revenue Fund. \$1,000,000

SECTION 9.240.— To the Department of Corrections

For the Division of Offender Rehabilitative Services
 For the purpose of funding Missouri Correctional Enterprises
 Personal Service. \$7,704,116
 Expense and Equipment. 25,645,726
 From Working Capital Revolving Fund (Not to exceed 240.00 F.T.E.). \$33,349,842

SECTION 9.245.— To the Department of Corrections

For the Division of Offender Rehabilitative Services
 For the purpose of funding the Private Sector/Prison Industry Enhancement Program
 Expense and Equipment
 From Working Capital Revolving Fund. \$962,762

SECTION 9.250.— To the Department of Corrections

For the purpose of funding the Board of Probation and Parole
 Personal Service. \$57,549,688
 Annual salary adjustment in accordance with Section 105.005, RSMo 21,240
 Expense and Equipment. 4,880,165
 From General Revenue Fund. \$62,451,093

Personal Service. 129,277
 Expense and Equipment. 63,048
 From Inmate Revolving Fund. 192,325
 Total (Not to exceed 1,759.08 F.T.E.). \$62,643,418

SECTION 9.255.— To the Department of Corrections

For the Board of Probation and Parole

For the purpose of funding the St. Louis Community Release Center
 Personal Service
 From General Revenue Fund (Not to exceed 132.71 F.T.E.) \$4,037,840

SECTION 9.260.— To the Department of Corrections
 For the Board of Probation and Parole
 For the purpose of funding the Kansas City Community Release Center
 Personal Service
 From General Revenue Fund. \$2,425,034
 From Inmate Revolving Fund. 44,701
 Total (Not to exceed 82.69 F.T.E.) \$2,469,735

SECTION 9.265.— To the Department of Corrections
 For the purpose of funding the Community Corrections Coordination Unit
 Personal Service
 From Inmate Revolving Fund (Not to exceed 4.00 F.T.E.) \$146,759

SECTION 9.270.— To the Department of Corrections
 For the Board of Probation and Parole
 For the purpose of funding the Command Center
 Personal Service. \$505,487
 Expense and Equipment. 14,546
 From General Revenue Fund (Not to exceed 14.40 F.T.E.) \$520,033

SECTION 9.275.— To the Department of Corrections
 For the Board of Probation and Parole
 For the purpose of funding Local Sentencing Initiatives
 Expense and Equipment
 From the Inmate Revolving Fund. \$1,087,115

SECTION 9.280.— To the Department of Corrections
 For the Board of Probation and Parole
 For the purpose of funding residential treatment facilities
 Expense and Equipment
 From the Inmate Revolving Fund. \$2,733,039

SECTION 9.285.— To the Department of Corrections
 For the Board of Probation and Parole
 For the purpose of funding electronic monitoring
 Expense and Equipment
 From the Inmate Revolving Fund. \$1,494,821

SECTION 9.290.— To the Department of Corrections
 For the Board of Probation and Parole
 For the purpose of funding community supervision centers
 Personal Service. \$1,973,976
 Expense and Equipment. 1,517,842
 From General Revenue Fund (Not to exceed 92.00 F.T.E.) \$3,491,818

SECTION 9.295.— To the Department of Corrections
 For paying an amount in aid to the counties that is the net amount of costs in
 criminal cases, transportation of convicted criminals to the state penitentiaries,

housing, and costs for reimbursement of the expenses associated with
extradition, less the amount of unpaid city or county liability to furnish
public defender office space and utility services pursuant to Section 600.040,
RSMo
From General Revenue Fund.. . . . \$40,060,616

BILL TOTALS

General Revenue Fund.	\$586,127,292
Federal Funds.	8,587,041
Other Funds.	<u>43,632,887</u>
Total.	\$638,347,220

Approved June 29, 2006

HB 1010 [CCS SCS HCS HB 1010]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: Department of Mental Health, Board of Public Buildings, Department of Health and Senior Services, and Missouri Health Facilities Review Committee.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Department of Mental Health, the Board of Public Buildings, the Department of Health and Senior Services, the Office of Administration, and several divisions and programs thereof, and the Missouri Health Facilities Review Committee to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the period beginning July 1, 2006 and ending June 30, 2007.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2006 and ending June 30, 2007, as follows:

SECTION 10.005. — To the Department of Mental Health

For the Office of the Director

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.	\$660,759
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Personal Service.	35,605
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Expense and Equipment.	<u>76,223</u>
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From Federal Funds.	<u>111,828</u>
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Total (Not to exceed 9.52 F.T.E.).	\$772,587
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SECTION 10.007. To the Department of Mental Health

For the Office of Administration

For the purpose of funding building maintenance and repair service contracts

Expense and Equipment

From General Revenue Fund.	\$478,668
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From Mental Health Interagency Payment Fund.	<u>29,592</u>
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Total (0 F.T.E.).	\$508,260
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SECTION 10.010.— To the Department of Mental Health

For the Office of the Director

For funding program operations and support

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund. \$6,560,629

Personal Service. 698,856

Expense and Equipment. 747,016

From Federal Funds 1,445,872

For the payment of fees to contractors who engage in revenue maximization projects
on behalf of the Department of Mental Health

From Federal Funds. 1E

Total (Not to exceed 153.43 F.T.E.). \$8,006,502

SECTION 10.015.— To the Department of Mental Health

For the Office of the Director

For the purpose of funding insurance, private pay, licensure fee, and/or Medicaid
refunds by state facilities operated by the Department of Mental Health

From General Revenue Fund. \$49,217

For the payment of refunds set off against debts as required by Section 143.786, RSMo

From Debt Offset Escrow Fund 70,000E

Total (0 F.T.E.). \$119,217

SECTION 10.020.— There is transferred out of the State Treasury from the

Abandoned Fund Account to the Mental Health Trust Fund

From Abandoned Fund Account. \$50,000E

SECTION 10.025.— To the Department of Mental Health

For the Office of the Director

For the purpose of funding receipt and disbursement of donations and gifts which
may become available to the Department of Mental Health during the year
(excluding federal grants and funds)

Personal Service. \$779,963

Expense and Equipment. 1,283,486

From Mental Health Trust Fund (Not to exceed 11.50 F.T.E.). \$2,063,449

SECTION 10.030.— To the Department of Mental Health

For the Office of the Director

For the purpose of funding operational maintenance and repairs for state-owned
facilities

Expense and Equipment

From Facilities Maintenance Reserve Fund (0 F.T.E.). \$1,197,230

SECTION 10.035.— To the Department of Mental Health

For the Office of the Director

For the purpose of funding federal grants which become available between sessions
of the General Assembly

Personal Service. \$106,496E

Expense and Equipment	<u>1,794,378E</u>
From Federal Funds (Not to exceed 2.00 F.T.E.).	\$1,900,874

SECTION 10.040.— To the Department of Mental Health

For the Office of the Director

For the purpose of funding Children's System of Care..... \$4,780,190

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation. . . .	<u>203,844</u>
From Federal Funds (Not to exceed 1.20 F.T.E.).	\$4,984,034

SECTION 10.045.— To the Department of Mental Health

For the Office of the Director

For the purpose of funding Shelter Plus Care grants

From Federal Funds (0 F.T.E.). \$6,343,179

SECTION 10.050.— To the Department of Mental Health

For Medicaid payments related to intergovernmental payments

From Mental Health Intergovernmental Transfer Fund. \$11,000,000

From Federal Funds 16,500,000E

Total. \$27,500,000

SECTION 10.055.— There is transferred out of the State Treasury from Federal Funds
to the General Revenue Fund for the purpose of supporting MRDD
community programs

From Federal Funds. \$2,700,000

SECTION 10.060.— There is transferred out of the State Treasury from Federal Funds
to the General Revenue Fund Disproportionate Share Hospital (DSH) funds
leveraged by the Department of Mental Health-Institute of Mental Disease
(IMD) facilities

From Federal Funds. \$37,304,309E

SECTION 10.062.— There is transferred out of the State Treasury from Federal
Funds to the General Revenue Fund for the purpose of funding MRDD
state-operated facilities

From Federal Funds. \$3,230,000

SECTION 10.100.— To the Department of Mental Health

For the Division of Alcohol and Drug Abuse

For the purpose of funding the administration of statewide comprehensive alcohol
and drug abuse prevention and treatment programsPersonal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund. \$1,055,049

Personal Service.....	766,126
Expense and Equipment.	<u>183,541</u>
From Federal Funds	949,667

Personal Service

From Health Initiatives Fund 42,482

Personal Service.	97,146
Expense and Equipment.	<u>52,372</u>
From Mental Health Earnings Fund.	149,518
Total (Not to exceed 44.38 F.T.E.).	<u>\$2,196,716</u>

SECTION 10.105.— To the Department of Mental Health

For the Division of Alcohol and Drug Abuse

For the purpose of funding prevention and education services

Personal Service	
From General Revenue Fund.	\$9,394

For prevention and education services.	4,738,355
Personal Service.	323,624
Expense and Equipment.	<u>801,149</u>
From Federal Funds	5,863,128

For prevention and education services

Expense and Equipment	
From Healthy Families Trust Fund-Tobacco Prevention Account.	300,000

For tobacco retailer education

Provided that no person under the age of eighteen shall be used as either an employee or a volunteer for the purposes of enforcement of tobacco laws	
Personal Service.	232,433
Expense and Equipment.	<u>103,622</u>
From Federal Funds	336,055

For a state incentive program

Personal Service.	190,973
Expense and Equipment.	<u>2,821,412</u>
From Federal Funds	3,012,385

For Community 2000 Team programs

From General Revenue Fund.	22,498
From Federal Funds	2,059,693

For school-based alcohol and drug abuse prevention programs

From Federal Funds.	<u>1,052,185</u>
Total (Not to exceed 18.26 F.T.E.).	<u>\$12,655,338</u>

SECTION 10.110.— To the Department of Mental Health

For the Division of Alcohol and Drug Abuse

For the purpose of funding the treatment of alcohol and drug abuse

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation. . .	\$3,737,527
For treatment of alcohol and drug abuse	<u>22,852,344</u>
From General Revenue Fund.	26,589,871

For system enhancement of youth services

Personal Service.	8,561
Expense and Equipment.	<u>731,802</u>
From Federal Funds	740,363

For treatment of alcohol and drug abuse.	38,603,579E
Personal Service.	778,401
Expense and Equipment.	646,412
From Federal Funds	40,028,392

For treatment of drug and alcohol abuse with the Access to Recovery Grant	
For treatment services	6,589,796
Personal Service.	167,583
Expense and Equipment.	693,550
From Federal Funds	7,450,929

For treatment of alcohol and drug abuse	
From Inmate Revolving Fund	640,084
From Healthy Families Trust Fund-Health Care Account	2,052,908
From Health Initiatives Fund	5,577,349
From Mental Health Trust Fund.	485,000
Total (Not to exceed 55.91 F.T.E.).	\$83,564,896

SECTION 10.115.— To the Department of Mental Health

For the Division of Alcohol and Drug Abuse

For the purpose of funding treatment of compulsive gambling.	\$412,798
Personal Service.	37,644
Expense and Equipment.	5,194
From Compulsive Gambler Fund (Not to exceed 1.00 F.T.E.).	\$455,636

SECTION 10.120.— To the Department of Mental Health

For the Division of Alcohol and Drug Abuse

For the purpose of funding the Substance Abuse Traffic Offender Program

From Federal Funds.	\$426,693
From Health Initiatives Fund	230,545
From Mental Health Earnings Fund	3,570,018E
Total (Not to exceed 5.48 F.T.E.).	\$4,227,256

SECTION 10.125.— To the Department of Mental Health

For the purpose of funding a provider rate increase to the Division of Alcohol and

Drug Abuse and the Division of Comprehensive Psychiatric Service providers,
that may include all or specific categories of private service providers

From General Revenue Fund.	\$3,460,740
From Federal Funds	1,658,704
From Compulsive Gambler Fund	11,599
From Mental Health Earnings Fund.	100,314
Total.	\$5,231,357

SECTION 10.200.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding division administration

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.	\$792,265
Personal Service.	569,598
Expense and Equipment	184,734

From Federal Funds 754,332

For suicide prevention initiatives

Personal Service. 23,463

Expense and Equipment. 620,401

From Federal Funds. 643,864

Total (Not to exceed 25.60 F.T.E.). \$2,190,461

SECTION 10.205.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding the PRN nursing and direct care staff pool, provided that staff paid from the PRN nursing and direct care staff pool will only incur fringe benefit costs applicable to part-time employment

Personal Service and/or Expense and Equipment

From General Revenue Fund (Not to exceed 74.12 F.T.E.). \$3,236,281

SECTION 10.210.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding adult community programs

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund. \$622,449

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation

From Federal Funds 1,916,233

For the purpose of funding adult community programs, provided that up to ten percent (10%) of this appropriation may be used for services for youth

From General Revenue Fund. 73,695,136

From Federal Funds 74,748,720E

From Mental Health Trust Fund. 230,000E

From Mental Health Earnings Fund 223,740

For the purpose of funding law enforcement and judicial training

From Mental Health Trust Fund. 266,235

For the purpose of funding programs for the homeless mentally ill

From General Revenue Fund. 425,696

From Federal Funds. 800,000

Total (Not to exceed 13.46 F.T.E.). \$152,928,209

SECTION 10.215.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of reimbursing attorneys, physicians, and counties for fees in involuntary civil commitment procedures. \$774,099E

For distribution through the Office of Administration to counties pursuant to

Section 56.700, RSMo. 132,550

From General Revenue Fund (0 F.T.E.). \$906,649

SECTION 10.220.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services
 For the purpose of funding forensic support services
 Personal Service and/or Expense and Equipment, provided that not more than
 twenty percent (20%) flexibility is allowed between each appropriation
 From General Revenue Fund (Not to exceed 17.39 F.T.E.) \$761,478

SECTION 10.225.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services
 For the purpose of funding youth community programs
 Personal Service and/or Expense and Equipment, provided that not more than
 twenty percent (20%) flexibility is allowed between each appropriation
 From General Revenue Fund. \$301,038

 Personal Service and/or Expense and Equipment, provided that not more than
 twenty percent (20%) flexibility is allowed between each appropriation
 From Federal Funds 1,213,963
 For the purpose of funding youth community programs, provided that up to ten
 percent (10%) of this appropriation may be used for services for adults
 From General Revenue Fund. 20,674,622
 From Federal Funds 18,308,359E
 From Mental Health Trust Fund. 250,000E
 Total (Not to exceed 7.31 F.T.E.). \$40,747,982

SECTION 10.230.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services
 For the purpose of funding services for children who are clients of the Department
 of Social Services
 Personal Service. \$489,900
 Expense and Equipment. 74,700
 From Mental Health Interagency Payments Fund (Not to exceed 11.00 F.T.E.) . . . \$564,600

SECTION 10.235.— To the Department of Mental Health

For the Office of Administration
 For the Division of Comprehensive Psychiatric Services For the purpose of
 funding fuel and utility expenses at state facilities operated by the Division
 of Comprehensive Psychiatric Services, provided that up to three percent (3%)
 of this appropriation may be used for facilities operated by the Division of
 Mental Retardation and Developmental Disabilities
 Expense and Equipment
 From General Revenue Fund (0 F.T.E.). \$4,810,368

SECTION 10.240.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services
 For the purchase and administration of new medication therapies
 Expense and Equipment
 From General Revenue Fund. \$9,080,488
 From Federal Funds. 916,243
 Total (0 F.T.E.). \$9,996,731

SECTION 10.245.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services
 For the purpose of funding costs for forensic clients resulting from loss of benefits under

provisions of the Social Security Domestic Employment Reform Act of 1994
Expense and Equipment
From General Revenue Fund (0 F.T.E.). \$855,685

SECTION 10.300.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Fulton State Hospital

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) may be spent on the Purchase of Community Services,
including transitioning clients to the community or other state-operated facilities,
and that not more than twenty percent (20%) flexibility is allowed between
each appropriation

From General Revenue Fund. \$44,967,057

Personal Service. 122,765

Expense and Equipment. 75,150

From Federal Funds 197,915

For the provision of support services to other agencies

Expense and Equipment

From Mental Health Interagency Payments Fund 470,408

For the purpose of paying overtime to nonexempt state employees as required

by Section 105.935, RSMo, and/or for otherwise authorized

Personal Service expenditures in lieu of such overtime payments

From General Revenue Fund. 2,042,885

Total (Not to exceed 1,244.42 F.T.E.). \$47,678,265

SECTION 10.305.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Northwest Missouri Psychiatric Rehabilitation Center

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) may be spent on the Purchase of Community
Services, including transitioning clients to the community or other state-
operated facilities, and that not more than twenty percent (20%) flexibility
is allowed between each appropriation

From General Revenue Fund. \$11,138,151

Personal Service

From Federal Funds 496,208

For psychiatric services

From Mental Health Trust Fund. 421,866

For the purpose of paying overtime to nonexempt state employees as required by

Section 105.935, RSMo, and/or for otherwise authorized Personal Service
expenditures in lieu of such overtime payments

From General Revenue Fund. 305,077

From Federal Funds. 10,446

Total (Not to exceed 322.80 F.T.E.). \$12,371,748

SECTION 10.310.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services
 For the purpose of funding St. Louis Psychiatric Rehabilitation Center
 Personal Service and/or Expense and Equipment, provided that not more than
 twenty percent (20%) may be spent on the Purchase of Community Services,
 including transitioning clients to the community or other state-operated facilities,
 and that not more than twenty percent (20%) flexibility is allowed between
 each appropriation
 From General Revenue Fund. \$18,182,399

 Personal Service
 From Federal Funds 196,209

For the purpose of paying overtime to nonexempt state employees as required by
 Section 105.935, RSMo, and/or for otherwise authorized Personal Service
 expenditures in lieu of such overtime payments
 From General Revenue Fund. 399,087
 From Federal Funds. 864
 Total (Not to exceed 528.79 F.T.E.). \$18,778,559

SECTION 10.315.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services
 For the purpose of funding Southwest Missouri Psychiatric Rehabilitation Center
 Personal Service and/or Expense and Equipment, provided that not more than
 twenty percent (20%) may be spent on the Purchase of Community Services,
 including transitioning clients to the community or other state-operated facilities,
 and that not more than twenty percent (20%) flexibility is allowed between
 each appropriation
 From General Revenue Fund \$2,731,483
 From Federal Funds 169,194

For the purpose of paying overtime to nonexempt state employees as required by
 Section 105.935, RSMo, and/or for otherwise authorized Personal Service
 expenditures in lieu of such overtime payments
 From General Revenue Fund. 20,568
 Total (Not to exceed 76.05 F.T.E.). \$2,921,245

SECTION 10.320.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services
 For the purpose of funding Metropolitan St. Louis Psychiatric Center
 Personal Service and/or Expense and Equipment, provided that not more than
 twenty percent (20%) may be spent on the Purchase of Community Services,
 including transitioning clients to the community or other state-operated facilities,
 and that not more than twenty percent (20%) flexibility is allowed between
 each appropriation
 From General Revenue Fund. \$13,991,358

 Personal Service
 From Federal Funds 180,658

For the purpose of paying overtime to nonexempt state employees as required by

Section 105.935, RSMo, and/or for otherwise authorized Personal Service
expenditures in lieu of such overtime payments

From General Revenue Fund.....	94,310
From Federal Funds.	<u>1,061</u>
Total (Not to exceed 342.03 F.T.E.).	\$14,267,387

SECTION 10.325.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Mid-Missouri Mental Health Center

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) may be spent on the Purchase of Community Services,
including transitioning clients to the community or other state-operated facilities,
and that not more than twenty percent (20%) flexibility is allowed between
each appropriation

From General Revenue Fund.....	\$7,618,046
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Personal Service

From Federal Funds ..	314,879
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For services for children and youth

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.....	1,892,086
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For the purpose of paying overtime to nonexempt state employees as required by

Section 105.935, RSMo, and/or for otherwise authorized Personal Service
expenditures in lieu of such overtime payments

From General Revenue Fund.....	201,989
From Federal Funds.	<u>5,630</u>
Total (Not to exceed 222.91 F.T.E.).	\$10,032,630

SECTION 10.330.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Southeast Missouri Mental Health Center

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) may be spent on the Purchase of Community Services,
including transitioning clients to the community or other state-operated facilities,
and that not more than twenty percent (20%) flexibility is allowed between
each appropriation

From General Revenue Fund.....	\$16,684,213
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For the purpose of paying overtime to nonexempt state employees as required by

Section 105.935, RSMo, and/or for otherwise authorized Personal Service
expenditures in lieu of such overtime payments

From General Revenue Fund.....	<u>436,817</u>
Total (Not to exceed 490.45 F.T.E.).	\$17,121,030

SECTION 10.335.— To the Board of Public Buildings

For the Department of Mental Health

For operation and maintenance of the Southeast Missouri Mental Health Center

Expense and Equipment

From General Revenue Fund (0 F.T.E.).	\$87,234
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SECTION 10.340.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Western Missouri Mental Health Center

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) may be spent on the Purchase of Community Services, including transitioning clients to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund. \$16,044,051

For the Western Missouri Mental Health Center and/or contracting for children's services in the Northwest Region

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund. 1,011,256

For the purpose of paying overtime to nonexempt state employees as required by Section 105.935, RSMo, and/or for otherwise authorized Personal Service expenditures in lieu of such overtime payments

From General Revenue Fund. 1,015,385

Total (Not to exceed 479.39 F.T.E.). \$18,070,692

SECTION 10.345.— To the Department of Mental Health

For the purpose of funding the Missouri Sexual Offender Treatment Center

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund. \$9,437,813

For the purpose of paying overtime to nonexempt state employees as required by Section 105.935, RSMo, and/or for otherwise authorized Personal Service expenditures in lieu of such overtime payments

From General Revenue Fund. 367,556

Total (Not to exceed 259.65 F.T.E.). \$9,805,369

SECTION 10.350.— To the Department of Mental Health

For the Division of Comprehensive Psychiatric Services

For the purpose of funding Hawthorn Children's Psychiatric Hospital

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund. \$6,291,507

Personal Service. 1,405,152

Expense and Equipment. 78,684

From Federal Funds 1,483,836

For the purpose of paying overtime to nonexempt state employees as required by Section 105.935, RSMo, and/or for otherwise authorized Personal Service expenditures in lieu of such overtime payments

From General Revenue Fund. 133,881

From Federal Funds. 6,708

Total (Not to exceed 215.14 F.T.E.). \$7,915,932

SECTION 10.355.— To the Department of Mental Health

For the purpose of funding Cottonwood Residential Treatment Center

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund..... \$1,176,504

Personal Service

From Federal Funds 1,507,397

For the purpose of paying overtime to nonexempt state employees as required by

Section 105.935, RSMo, and/or for otherwise authorized Personal Service
expenditures in lieu of such overtime payments

From General Revenue Fund..... 61,829

From Federal Funds. 1,040

Total (Not to exceed 84.51 F.T.E.)..... \$2,746,770

SECTION 10.400.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding division administration

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund..... \$949,845

Personal Service. 245,543

Expense and Equipment..... 63,881

From Federal Funds. 309,424

Total (Not to exceed 19.00 F.T.E.)..... \$1,259,269

SECTION 10.402.— To the Department of Mental Health

For the purpose of funding cost associated with the Division of Mental Retardation-

Developmental Disabilities to achieve personnel standards at habilitation centers

Personal Service and/or Expense and Equipment

From General Revenue Fund (Not to exceed 97.70 F.T.E.)..... \$3,844,154

SECTION 10.405.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

Provided that residential services for non-Medicaid eligibles shall not be reduced
below the prior year expenditures as long as the person is evaluated to need the
services

For the purpose of funding community programs

From General Revenue Fund..... \$105,992,301

From Federal Funds 235,224,329E

For the purpose of funding community programs

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund..... 993,958

Personal Service. 798,181

Expense and Equipment..... 41,776

From Federal Funds 839,957

For consumer and family directed supports/in-home services/choices for families
 From General Revenue Fund. 17,535,899

For the purpose of funding programs and in-home family directed services for
 persons with autism and their families
 From General Revenue Fund. 3,210,705

For services for children who are clients of the Department of Social Services
 From Mental Health Interagency Payments Fund 2,995,847

For SB 40 Board Tax Funds to be used as match for Medicaid initiatives for clients
 of the Division
 From Mental Health Trust Fund. 10,234,694E
 Total (Not to exceed 48.49 F.T.E.). \$377,027,690

SECTION 10.410.— To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding developmental disabilities services
 Personal Service. \$351,122
 Expense and Equipment. 1,187,593
 From Federal Funds (Not to exceed 7.98 F.T.E.). \$1,538,715

SECTION 10.415.— To the Department of Mental Health
 For the Office of Administration
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding fuel and utility expenses at state facilities operated
 by the Division of Mental Retardation-Developmental Disabilities, provided
 that up to three percent (3%) of this appropriation may be used for
 facilities operated by the Division of Comprehensive Psychiatric Services
 Expense and Equipment
 From General Revenue Fund (0 F.T.E.). \$2,919,889

SECTION 10.420.— To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding capital improvement projects at State Habilitation
 Centers and residential facilities
 From Mental Health Housing Trust Fund (0 F.T.E.). \$773,900

SECTION 10.500.— To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding the Albany Regional Center
 Personal Service and/or Expense and Equipment, provided that not more than
 twenty percent (20%) flexibility is allowed between each appropriation
 From General Revenue Fund. \$1,288,094
 From Federal Funds. 419,076
 Total (Not to exceed 44.20 F.T.E.). \$1,707,170

SECTION 10.505.— To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding the Central Missouri Regional Center
 Personal Service and/or Expense and Equipment, provided that not more than

twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.....	\$1,484,350
From Federal Funds.	<u>1,051,851</u>
Total (Not to exceed 65.99 F.T.E.).....	\$2,536,201

SECTION 10.510.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding the Hannibal Regional Center

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.....	\$1,833,757
From Federal Funds.	<u>332,890</u>
Total (Not to exceed 53.43 F.T.E.).....	\$2,166,647

SECTION 10.515.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding the Joplin Regional Center

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.....	\$1,846,574
From Federal Funds.	<u>412,849</u>
Total (Not to exceed 54.84 F.T.E.).....	\$2,259,423

SECTION 10.520.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding the Kansas City Regional Center

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.....	\$2,542,934
From Federal Funds.	<u>1,644,756</u>
Total (Not to exceed 96.48 F.T.E.).....	\$4,187,690

SECTION 10.525.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding the Kirksville Regional Center

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.....	\$1,226,234
From Federal Funds.	<u>321,293</u>
Total (Not to exceed 37.25 F.T.E.).....	\$1,547,527

SECTION 10.530.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding the Poplar Bluff Regional Center

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.....	\$1,282,483
From Federal Funds.	<u>311,059</u>
Total (Not to exceed 39.99 F.T.E.).....	\$1,593,542

SECTION 10.535.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding the Rolla Regional Center
 Personal Service and/or Expense and Equipment, provided that not more than
 twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.	\$1,670,613
From Federal Funds.	<u>595,393</u>
Total (Not to exceed 60.95 F.T.E.).	\$2,266,006

SECTION 10.540.— To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding the Sikeston Regional Center
 Personal Service and/or Expense and Equipment, provided that not more than
 twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.	\$1,422,212
From Federal Funds.	<u>244,921</u>
Total (Not to exceed 42.59 F.T.E.).	\$1,667,133

SECTION 10.545.— To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding the Springfield Regional Center
 Personal Service and/or Expense and Equipment, provided that not more than
 twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.	\$1,892,308
From Federal Funds.	<u>700,651</u>
Total (Not to exceed 65.83 F.T.E.).	\$2,592,959

SECTION 10.550.— To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding the St. Louis Regional Center
 Personal Service and/or Expense and Equipment, provided that not more than
 twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.	\$4,199,019
From Federal Funds.	<u>4,098,342</u>
Total (Not to exceed 218.65 F.T.E.).	\$8,297,361

SECTION 10.555.— To the Department of Mental Health
 For the Division of Mental Retardation-Developmental Disabilities
 For the purpose of funding Bellefontaine Habilitation Center
 Personal Service and/or Expense and Equipment, provided that not more than
 twenty percent (20%) flexibility is allowed between each appropriation and not
 more than 7% may be spent on the Purchase of Community Services unless
 additional clients choose to move to the community or other state-owned facilities

From General Revenue Fund.	\$15,360,122
From Federal Funds	<u>1,888,759</u>

For the purpose of paying overtime to nonexempt state employees as required by
 Section 105.935, RSMo., and/or for otherwise authorized Personal Service
 expenditures in lieu of such overtime payments

From General Revenue Fund.	1,226,300
From Federal Funds	<u>35,976</u>

For the purpose of funding clients transitioned from Bellefontaine Habilitation Center
to Southeast Missouri Mental Health Center
Personal Service and/or Expense and Equipment
Provided that if funds are not used by Southeast Missouri Mental Health
Center, appropriations may be used for the operation of Bellefontaine
Habilitation Center

From General Revenue Fund.....	2,108,293
Total (Not to exceed 646.29 F.T.E.).....	\$20,619,450

SECTION 10.560.— To the Department of Mental Health
For the Division of Mental Retardation-Developmental Disabilities
For the purpose of funding Higginsville Habilitation Center

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) may be spent on the purchase of community services for
individuals that choose to move to the community or other state-operated facilities,
and that not more than twenty percent (20%) flexibility is allowed between each
appropriation

From General Revenue Fund.....	9,095,251
From Federal Funds	262,582

For Northwest Community Services

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) may be spent on the purchase of community services
for individuals that choose to move to the community or other state-operated
facilities, and that not more than twenty percent (20%) flexibility is allowed
between each appropriation

From General Revenue Fund.....	2,392,104
From Federal Funds	706,402

For the purpose of paying overtime to nonexempt state employees as required by
Section 105.935, RSMo, and/or for otherwise authorized Personal Service
expenditures in lieu of such overtime payments

From General Revenue Fund.....	477,208
From Federal Funds.	85,769
Total (Not to exceed 475.79 F.T.E.).....	\$13,019,316

SECTION 10.565.— To the Department of Mental Health
For the Division of Mental Retardation-Developmental Disabilities
For the purpose of funding Marshall Habilitation Center

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) may be spent on the purchase of community services for
individuals that choose to move to the community or other state-operated facilities,
and that not more than twenty percent (20%) flexibility is allowed between each
appropriation

From General Revenue Fund	20,520,414
From Federal Funds.....	2,114,993

For the purpose of paying overtime to nonexempt state employees as required by
Section 105.935, RSMo, and/or for otherwise authorized Personal Service
expenditures in lieu of such overtime payments

From General Revenue Fund.....	824,401
From Federal Funds.	50,839

Total (Not to exceed 843.65 F.T.E.). \$23,510,647

SECTION 10.570.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding Nevada Habilitation Center

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) may be spent on the purchase of community services for individuals that choose to move to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund. \$9,214,072

For the purpose of paying overtime to nonexempt state employees as required by Section 105.935, RSMo, and/or for otherwise authorized Personal Service expenditures in lieu of such overtime payments

From General Revenue Fund. 66,405

Total (Not to exceed 302.11 F.T.E.). \$9,280,477

SECTION 10.575.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding St. Louis Developmental Disabilities Treatment Center

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) may be spent on the purchase of community services for individuals that choose to move to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund. \$18,591,304

For the purpose of paying overtime to nonexempt state employees as required by Section 105.935, RSMo, and/or for otherwise authorized Personal Service expenditures in lieu of such overtime payments

From General Revenue Fund. 813,536

Total (Not to exceed 679.88 F.T.E.). \$19,404,840

SECTION 10.580.— To the Board of Public Buildings

For the Department of Mental Health

For the operation and maintenance of St. Louis Developmental Disabilities Treatment

Center improvements

Expense and Equipment

From General Revenue Fund. \$84,861

SECTION 10.585.— To the Department of Mental Health

For the Division of Mental Retardation-Developmental Disabilities

For the purpose of funding Southeast Missouri Residential Services

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) may be spent on the purchase of community services for individuals that choose to move to the community or other state-operated facilities, and that not more than twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund. \$5,452,278

For the purpose of paying overtime to nonexempt state employees as required by
 Section 105.935, RSMo, and/or for otherwise authorized Personal Service
 expenditures in lieu of such overtime payments

From General Revenue Fund.....	310,230
Total (Not to exceed 207.48 F.T.E.).....	<u>\$5,762,508</u>

SECTION 10.600.— To the Department of Health and Senior Services

For the Office of the Director

For the purpose of funding program operations and support

Personal Service and/or Expense and Equipment, provided that not more than
 twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.....	\$1,365,756
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Personal Service.....	1,522,411
Expense and Equipment.....	403,297
From Federal Funds.....	<u>1,925,708</u>
Total (Not to exceed 59.59 F.T.E.).....	<u>\$3,291,464</u>

SECTION 10.602.— To the Department of Health and Senior Services

For the purpose of funding an existing umbilical cord blood bank located in the
 State of Missouri and operated by a not-for-profit children's hospital and for
 minority donation outreach efforts

From General Revenue Fund.....	\$350,000
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SECTION 10.603.— To the Department of Health and Senior Services

For the purpose of funding an enhanced case management system

Expense and Equipment

From Healthcare Technology Fund.....	\$1,300,000
From Federal Funds	<u>1,300,000</u>

For the purpose of funding a new immunization registry system

Expense and Equipment

From Healthcare Technology Fund.....	500,000
Total (0 F.T.E.).....	<u>\$3,100,000</u>

SECTION 10.605.— To the Department of Health and Senior Services

For the Office of the Director

For the purpose of funding the State Public Health Laboratory

Personal Service and/or Expense and Equipment, provided that not more than
 twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.....	\$2,784,244
From Federal Funds	2,009,354
From Missouri Public Health Services Fund.....	3,223,445
From Childhood Lead Testing Fund.....	<u>235,383</u>
Total (Not to exceed 101.71 F.T.E.).....	<u>\$8,252,426</u>

SECTION 10.610.— To the Department of Health and Senior Services

For the Division of Administration

For the purpose of funding program operations and support

Personal Service and/or Expense and Equipment, provided that not more than
 twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund. \$764,916

Personal Service

From Federal Funds 2,287,907

From Missouri Public Health Services Fund. 125,265

Expense and Equipment

From Federal and Other Funds. 3,656,574

Total (Not to exceed 80.73 F.T.E.). \$6,834,662

SECTION 10.615.— To the Department of Health and Senior Services

For the Center for Emergency Response and Terrorism

Personal Service. \$2,995,808

Expense and Equipment and Program Distribution. 20,679,535

From Federal Funds (Not to exceed 63.51 F.T.E.). \$23,675,343

SECTION 10.620.— There is transferred out of the State Treasury from the Health Initiatives Fund to the Health Access Incentive Fund

From Health Initiatives Fund. \$3,241,003

SECTION 10.625.— To the Department of Health and Senior Services

For the Division of Administration

For the purpose of funding the payment of refunds set off against debts in accordance with Section 143.786, RSMo

From Debt Offset Escrow Fund. \$37,684E

SECTION 10.630.— To the Department of Health and Senior Services

For the Division of Administration

For the purpose of making refund payments

From General Revenue Fund. \$16,414E

From Federal and Other Funds 44,736E

Total (0 F.T.E.). \$61,150

SECTION 10.635.— To the Department of Health and Senior Services

For the Division of Administration

For the purpose of receiving and expending federal funds and donations provided that the General Assembly shall be notified of the source of any new funds and the purpose for which they will be expended, in writing, prior to the expenditure of said funds

From Federal Funds. \$5,703,445E

From Department of Health Donated Fund 2,642,317E

Total (0 F.T.E.). \$8,345,762

SECTION 10.640.— To the Department of Health and Senior Services

For the Division of Administration

For contributions from federal and other sources that are deposited in the state treasury for use by the Department of Health and Senior Services to furnish aid and relief pursuant to Section 192.326, RSMo.

From DHSS Disaster Fund. 1E

For response to an avian flu outbreak

From DHSS Disaster Fund. 1E

Total (0 F.T.E.). \$2

SECTION 10.645.— To the Department of Health and Senior Services

For the Division of Community and Public Health

For the purpose of funding program operations and support

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation and that
at least \$100,000 shall be used for the diagnosis and treatment of tuberculosis

From General Revenue Fund. \$7,527,479

From Federal Funds 19,956,589

Personal Service

From Health Initiatives Fund 46,416

From Health Access Incentive Fund. 88,630

Expense and Equipment

From Governor's Council on Physical Fitness Institution Gift Trust Fund. 350,000

Personal Service. 68,365

Expense and Equipment. 16,900

From Professional and Practical Nursing Student Loan and Nurse Loan

Repayment Fund. 85,265

Personal Service. 185,200

Expense and Equipment. 68,532

From Hazardous Waste Fund. 253,732

Personal Service. 102,309

Expense and Equipment. 82,010

From Organ Donor Program Fund. 184,319

Personal Service. 306,530

Expense and Equipment. 132,362

From Missouri Public Health Services Fund. 438,892

Personal Service. 339,468

Expense and Equipment. 275,000

From Department of Health Document Services Fund 614,468

Personal Service. 164,183

Expense and Equipment. 633,089

From Department of Health Donated Fund 797,272

Personal Service. 69,489

Expense and Equipment. 28,756

From Putative Father Registry Fund. 98,245

Total (Not to exceed 614.51 F.T.E.). \$30,441,307

SECTION 10.650.— To the Department of Health and Senior Services

For the Division of Community and Public Health

For the purpose of funding core public health functions and related expenses

From General Revenue Fund (0 F.T.E.). \$9,027,772

SECTION 10.655.— To the Department of Health and Senior Services

For the Division of Community and Public Health

For the purpose of funding community health programs and related expenses

From General Revenue Fund.	\$9,787,199
From Federal Funds	44,067,591
From Health Initiatives Fund	5,364,564
From Organ Donor Program Fund.	100,000
From C & M Smith Memorial Endowment Fund	35,000
From Blindness Education, Screening, and Treatment Fund.	250,000
From Crippled Children's Services Fund	275,000
From Missouri Lead Abatement Loan Fund	276,000
From Missouri Public Health Services Fund.	276,750
From Head Injury Fund.	852,400
Total (0 F.T.E.).	<u>\$61,284,504</u>

SECTION 10.660.— To the Department of Health and Senior Services

For the Division of Community and Public Health

For the purpose of funding supplemental nutrition programs

From Federal Funds (0 F.T.E.). \$156,891,116E

SECTION 10.665.— To the Department of Health and Senior Services

For the Division of Community and Public Health

For the purpose of funding alternatives to abortion services for women at or below 200 percent of Federal Poverty Level, consisting of services or counseling offered to a pregnant woman and continuing for one year thereafter, to assist her in carrying her unborn child to term instead of having an abortion, and to assist her in caring for her dependent child or placing her child for adoption, including, but not limited to the following: prenatal care; medical and mental health care; parenting skills; drug and alcohol testing and treatment; child care; newborn or infant care; housing utilities; educational services; food, clothing, and supplies relating to pregnancy, newborn care, and parenting; adoption assistance; job training and placement; establishing and promoting responsible paternity; ultrasound services; case management; domestic abuse protection; and transportation. Actual provisions and delivery of such services shall be dependent on client needs and not otherwise prioritized by the department. Such services shall be available only during pregnancy and continuing for one year thereafter, and shall exclude any family planning services. None of these funds shall be expended to perform or induce, assisting the performing or inducing of, or refer for, abortions; and none of these funds shall be granted to organizations or affiliates of organizations that perform or induce, assist in the performing or inducing of, or refer for, abortions

From General Revenue Fund.	\$739,512
From Federal Funds.	<u>760,000</u>
Total (0 F.T.E.).	<u>\$1,499,512</u>

SECTION 10.670.— To the Department of Health and Senior Services

For the Division of Community and Public Health

For the purpose of funding the Primary Care Resource Initiative Program (PRIMO),

Financial Aid to Medical Students, and Loan Repayment Programs

From Federal Funds	274,446
From Health Access Incentive Fund.....	3,021,500
From Department of Health Donated Fund	839,525
From Health Professional Student Loan and Loan Repayment Program	50,000
From Professional and Practical Nursing Student Loan and Nurse Loan Repayment Fund	499,752
Total (0 F.T.E.).	\$4,685,223

SECTION 10.675.— To the Department of Health and Senior Services

For the Division of Community and Public Health

For the Office of Minority Health

For the purpose of funding program operations and support

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund..... \$951,252

From Federal Funds 729,675 |From Department of Health Donated Fund 500,000 |

For Minority Health

Expense and Equipment and the purchase of services for the purpose of funding programs within Minority Health

From General Revenue Fund..... 165,707

From Federal Funds. 45,045

Total (Not to exceed 8.33 F.T.E.)..... \$2,391,679

SECTION 10.680.— To the Department of Health and Senior Services

For the Division of Senior and Disability Services

For the purpose of funding program operations and support

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund..... \$8,208,605

From Federal Funds. 9,828,037

Total (Not to exceed 477.15 F.T.E.)..... \$18,036,642

SECTION 10.685.— To the Department of Health and Senior Services

For the Division of Senior and Disability Services

For the purpose of funding Home and Community Services programs

From General Revenue Fund..... \$10,404,387

From Federal Funds 1,667,028 |

From Division of Aging Donations Fund. 50,000

Total (0 F.T.E.). \$12,121,415

SECTION 10.690.— To the Department of Health and Senior Services

For the Division of Senior and Disability Services

For the purpose of funding home health, respite care, homemaker chore, personal care, advanced personal care, adult day care, AIDS, children's waiver services, and other related services under the Medicaid fee-for-service and managed care programs. Provided that individuals eligible for or receiving nursing home care must be given the opportunity to have those Medicaid dollars follow them to the community to the extent necessary to meet their

unmet needs as determined by 13 CSR 15 9.030(5) and further be allowed to choose the personal care program option in the community that best meets the individuals' unmet needs. This includes the Consumer Directed Medicaid State Plan. And further provided that individuals eligible for the Medicaid Personal Care Option must be allowed to choose, from among all the program options, that option which best meets their unmet need as determined by 13 CSR 15 9.030(5); and also be allowed to have their Medicaid funds follow them to the extent necessary to meet their unmet needs whichever option they choose. This language does not create any entitlements not established by statute. The Department of Social Services, the single state agency administering the Medicaid program, is only authorized to reimburse for benefits that exceed a recipient's spenddown amount

From General Revenue Fund.	\$151,392,563
From Federal Funds.	242,161,888
Total (0 F.T.E.).	<u>\$393,554,451</u>

SECTION 10.695.— To the Department of Health and Senior Services

For the Division of Senior and Disability Services

For the purpose of funding Alzheimer's Grants

From General Revenue Fund.	\$265,670
From Federal Funds.	265,670
Total (0 F.T.E.).	<u>\$531,340</u>

SECTION 10.700.— To the Department of Health and Senior Services

For the Division of Senior and Disability Services

For the purpose of funding Home and Community Services grants, including funding for meals to be distributed to each Area Agency on Aging in proportion to the actual number of meals served during the preceding fiscal year

From General Revenue Fund.	\$11,299,296
From Federal Funds	36,577,853E
From Elderly Home-Delivered Meals Trust Fund.	430,000
Total (0 F.T.E.).	<u>\$48,307,149</u>

SECTION 10.705.— To the Department of Health and Senior Services

For the Division of Senior and Disability Services

For distributions to Area Agencies on Aging pursuant to the Older Americans Act and related programs

From General Revenue Fund (0 F.T.E.).	\$1,866,115
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SECTION 10.710.— To the Department of Health and Senior Services

For the Division of Senior and Disability Services

For acquiring, expanding, or improving senior centers in Worth County, Bethany in Harrison County, Hannibal and Puxico, provided that no distribution shall be made until a binding contract for the acquisition of a facility for such use or a binding contract for expansion or improvement of a currently utilized facility is executed, and the city, county, or not-for-profit has provided evidence thereof to the Director of the Department of Health and Senior Services

From General Revenue Fund (0 F.T.E.).	\$379,000
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SECTION 10.715.— To the Department of Health and Senior Services
 For the Division of Senior and Disability Services
 For the purpose of funding Naturally Occurring Retirement Communities
 From General Revenue Fund (0 F.T.E.). \$150,000

SECTION 10.720.— To the Department of Health and Senior Services
 For the Division of Regulation and Licensure
 For the purpose of funding program operations and support
 Personal Service and/or Expense and Equipment, provided that not more
 than twenty percent (20%) flexibility is allowed between each appropriation
 From General Revenue Fund. \$10,715,281
 From Federal Funds 12,615,640
 From Nursing Facility Quality of Care. 2,934,625
 From Missouri Public Health Services Fund. 183,391

 Personal Service. 68,028
 Expense and Equipment. 11,450
 From Health Access Initiatives Fund. 79,478

 Personal Service. 56,474
 Expense and Equipment. 13,560
 From Mammography Fund. 70,034

 Personal Service. 194,915
 Expense and Equipment. 57,561
 From Early Childhood Development, Education and Care Fund. 252,476
 Total (Not to exceed 541.28 F.T.E.). \$26,850,925

SECTION 10.725.— To the Department of Health and Senior Services
 For the Division of Regulation and Licensure
 For the purpose of funding activities to improve the quality of childcare,
 increase the availability of early childhood development programs, before-
 and after-school care, in-home services for families with newborn children,
 and for general administration of the program
 From Federal Funds. \$1,403,675
 From Early Childhood Development, Education and Care Fund. 728,740
 Total (0 F.T.E.). \$2,132,415

SECTION 10.730.— To the Department of Health and Senior Services
 For the Division of Regulation and Licensure
 For the purpose of funding program operations and support for the Missouri
 Health Facilities Review Committee
 Personal Service and/or Expense and Equipment, provided that not more than
 twenty percent (20%) flexibility is allowed between each appropriation
 From General Revenue Fund (Not to exceed 2.80 F.T.E.). \$156,342

DEPARTMENT OF MENTAL HEALTH TOTALS

General Revenue Fund. \$554,004,413
 Federal Funds. 451,928,567
 Other Funds. 39,079,337
 Total. \$1,045,012,317

DEPARTMENT OF HEALTH & SENIOR SERVICES TOTALS

General Revenue Fund.	\$228,301,096
Federal Funds.	567,288,385
Other Funds.	<u>26,767,085</u>
Total.	\$822,356,566

Approved June 29, 2006

HB 1011 [CCS SCS HCS HB 1011]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: Department of Social Services.

AN ACT to appropriate money for the expenses, grants, and distributions of the Department of Social Services and the Office of Administration and several divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the period beginning July 1, 2006 and ending June 30, 2007.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2006 and ending June 30, 2007 as follows:

SECTION 11.005.— To the Department of Social Services

For the Office of the Director

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation. . . .	\$460,740
Annual salary adjustment in accordance with Section 105.005, RSMo	<u>3,737</u>
From General Revenue Fund.	464,477
From Federal Funds	13,874

Annual salary adjustment in accordance with Section 105.005, RSMo	392
From Child Support Enforcement Collections Fund.	<u>60,770</u>
Total (Not to exceed 8.00 F.T.E.).	\$539,513

SECTION 11.007.— To the Department of Social Services

For the Office of Administration

For the purpose of funding fuel and utilities

Expense and Equipment	
From General Revenue Fund.	\$400,363
From Federal Funds	664,474
From Administrative Trust Fund	197,665
From Health Initiatives Fund.	<u>999</u>
Total.	\$1,263,501

SECTION 11.010.— To the Department of Social Services

For the Office of the Director

For the purpose of receiving and expending donations and federal funds provided
that the General Assembly shall be notified of the source of any new funds
and the purpose for which they shall be expended, in writing, prior to the use
of said funds

From Federal Funds and Other Funds (0 F.T.E.). \$12,004,958E

SECTION 11.015.— To the Department of Social Services

For Administrative Services

For the Division of General Services

For the purpose of funding operating maintenance and repair

From Federal Funds. \$10,138

From Facilities Maintenance Reserve Fund 30,708

For the Division of Youth Services

For the purpose of funding operating maintenance and repair

From Federal Funds 138,243

From Facilities Maintenance Reserve Fund. 78,794

Total (0 F.T.E.). \$257,883

SECTION 11.020.— To the Department of Social Services

For the Office of the Director

For the Human Resources Center

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund. \$357,603

From Federal Funds. 227,130

Total (Not to exceed 13.52 F.T.E.). \$584,733

SECTION 11.025.— To the Department of Social Services

For the Office of the Director

For the purpose of funding field and line training

Expense and Equipment

From General Revenue Fund. \$178,125

From Federal Funds. 131,840

Total (0 F.T.E.). \$309,965

SECTION 11.030.— To the Department of Social Services

For the purpose of paying overtime to nonexempt state employees as required by

Section 105.935, RSMo, and/or for otherwise authorized Personal Service
expenditures in lieu of such overtime payments

From General Revenue Fund (0 F.T.E.). \$1,046,902

SECTION 11.035.— To the Department of Social Services

For Administrative Services

For the Division of Budget and Finance

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund. \$1,838,229

From Federal Funds 1,050,318

From Other Funds. 4,055

Total (Not to exceed 74.42 F.T.E.). \$2,892,602

SECTION 11.040.— To the Department of Social Services

For Administrative Services

For the Division of Budget and Finance

For the payment of fees to contractors who engage in revenue maximization
projects on behalf of the Department of Social Services

From Federal Funds (0 F.T.E.). \$1,000,000E

SECTION 11.045.— To the Department of Social Services

For Administrative Services

For the Division of Budget and Finance

For the purpose of funding the receipt and disbursement of refunds and incorrectly
deposited receipts to allow the over-collection of accounts receivables to be
paid back to the recipient

From Federal Funds and Other Funds (0 F.T.E.). \$2,500,000E

SECTION 11.050.— To the Department of Social Services

For Administrative Services

For the Division of Budget and Finance

For the purpose of funding payments to counties toward the care and maintenance
of each delinquent or dependent child as provided in Chapter 211.156, RSMo

From General Revenue Fund (0 F.T.E.). \$3,302,000

SECTION 11.055.— To the Department of Social Services

For Administrative Services

For the purpose of funding the Division of General Services

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund. \$1,668,036

From Federal Funds 328,401

Personal Service

From Child Support Enforcement Collections Fund. 103,197

For the purpose of funding the centralized inventory system, for reimbursable goods
and services provided by the department, related equipment replacement and
maintenance expenses, and for Prince Hall building operations

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From Administrative Trust Fund. 5,554,035

Total (Not to exceed 66.11 F.T.E.). \$7,653,669

SECTION 11.060.— To the Department of Social Services

For Administrative Services

For the purpose of funding the Division of Legal Services

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund. \$1,970,109

From Federal Funds 3,642,143

From Third Party Liability Collections Fund. 636,402

From Child Support Enforcement Collections Fund. 156,472

Total (Not to exceed 141.97 F.T.E.)..... \$6,405,126

SECTION 11.065.— To the Department of Social Services

For the Family Support Division

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund..... \$905,526

From Federal Funds .. 10,606,624

From Child Support Enforcement Collections Fund..... 1,401,658

Expense and Equipment

From Third Party Liability Collections Fund. 134,577

Total (Not to exceed 170.49 F.T.E.)..... \$13,048,385

SECTION 11.070.— To the Department of Social Services

For the Family Support Division

For the income maintenance field staff and operations

Personal Service and/or Expense and Equipment, provided that not more than
twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund..... \$24,074,998

From Federal Funds .. 63,880,467

From Child Support Enforcement Collections Fund..... 1,517,816

From Health Initiatives Fund. 748,980

Total (Not to exceed 2,853.99 F.T.E.). \$90,222,261

SECTION 11.075.— To the Department of Social Services

For the Family Support Division

For income maintenance and child support staff training

From General Revenue Fund..... \$372,276

From Federal Funds. 164,239

Total (0 F.T.E.). \$536,515

SECTION 11.080.— To the Department of Social Services

For the Family Support Division

For the purpose of funding the electronic benefit transfers (EBT) system to reduce
fraud, waste, and abuse

Expense and Equipment

From General Revenue Fund..... \$4,138,507

From Federal Funds. 3,683,518

Total (0 F.T.E.). \$7,822,025

SECTION 11.082.— To the Department of Social Services

For the Family Support Division

For the purpose of funding the Missouri Supplemental Food Stamp Program

From General Revenue Fund..... \$3,526,676

SECTION 11.085.— To the Department of Social Services

For the Family Support Division

For the purpose of funding the receipt of funds from the Polk County and Bolivar

Charitable Trust for the exclusive benefit and use of the Polk County office

From Charitable Trust Account (0 F.T.E.)..... \$10,000

SECTION 11.090.— To the Department of Social Services

For the Family Support Division

For the purpose of funding contractor, hardware, and other costs associated with
planning, development, and implementation of a Family Assistance Management
Information System (FAMIS)

From General Revenue Fund.	\$2,262,971
From Federal Funds.	<u>3,788,405</u>
Total (0 F.T.E.).	\$6,051,376

SECTION 11.095.— To the Department of Social Services

For the Family Support Division

For the purpose of funding Community Partnerships

Personal Service

From General Revenue Fund.	\$87,778
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For grants and contracts to Community Partnerships and other community initiatives
and related expenses

From General Revenue Fund.	727,500
From Federal Funds	<u>7,483,799</u>

For Missouri Mentoring Partnership

From General Revenue Fund.	606,844
From Federal Funds	<u>778,143</u>

For the purpose of funding a mentoring program specifically targeting the children
of parents who are incarcerated

From General Revenue Fund.	100,000
From Federal Funds	<u>100,000</u>
Total (Not to exceed 3.00 F.T.E.).	\$9,884,064

SECTION 11.100.— To the Department of Social Services

For the Family Support Division

For the purpose of funding the Family Nutrition Program

From Federal Funds.	\$5,294,560
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SECTION 11.105.— To the Department of Social Services

For the Family Support Division

For the purpose of funding the payment of Temporary Assistance for Needy Families
benefits

From General Revenue Fund.	\$17,287,706
From Federal Funds	<u>121,064,744E</u>
Total.	\$138,352,450

SECTION 11.110.— To the Department of Social Services

For the Family Support Division

For the purpose of funding supplemental payments to aged or disabled persons

From General Revenue Fund.	\$125,000
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SECTION 11.115.— To the Department of Social Services

For the Family Support Division

For the purpose of funding nursing care payments to aged, blind, or disabled persons,

and for personal funds to recipients of Supplemental Nursing Care payments as required by Section 208.030, RSMo
 From General Revenue Fund. \$25,807,581

SECTION 11.120.— To the Department of Social Services
 For the Family Support Division
 For the purpose of providing Supplemental Security Income Program payment reimbursements for those eligible for General Relief Cash Assistance prior to July 31, 2003. Payments from this section shall not be considered General Relief Cash Assistance
 From Federal Funds. \$100,000E

SECTION 11.125.— To the Department of Social Services
 For the Family Support Division
 For the purpose of funding Blind Pension and supplemental payments to blind persons
 From Blind Pension Fund. \$24,272,802

SECTION 11.130.— To the Department of Social Services
 For the Family Support Division
 For the purpose of funding benefits and services as provided by the Indochina Migration and Refugee Assistance Act of 1975 as amended and for the immigration pilot project
 From General Revenue Fund. \$200,000
 From Federal Funds 3,808,853
 Total. \$4,008,853

SECTION 11.135.— To the Department of Social Services
 For the Family Support Division
 For the purpose of funding community services programs provided by Community Action Agencies, including programs to assist the homeless, under the provisions of the Community Services Block Grant
 From Federal Funds. \$19,144,171

SECTION 11.140.— To the Department of Social Services
 For the Family Support Division
 For the purpose of funding grants for local initiatives to assist the homeless
 From Federal Funds. \$500,000

SECTION 11.145.— To the Department of Social Services
 For the Family Support Division
 For the purpose of funding the Emergency Shelter Grant Program
 From Federal Funds. \$1,340,000

SECTION 11.150.— To the Department of Social Services
 For the Family Support Division
 For the purpose of funding the Surplus Food Distribution Program and the receipt and disbursement of Donated Commodities Program payments
 From Federal Funds. \$1,175,585

SECTION 11.155.— To the Department of Social Services
 For the Family Support Division
 For the purpose of funding the Low-Income Home Energy Assistance Program

From Federal Funds (Not to exceed 6.50 F.T.E.). \$40,810,081E

SECTION 11.160.— To the Department of Social Services

For the Family Support Division

For the purpose of funding services and programs to assist victims of domestic violence

From General Revenue Fund.	\$4,500,000
From Federal Funds.	<u>1,687,653</u>
Total.	\$6,187,653

SECTION 11.165.— To the Department of Social Services

For the Family Support Division

For the purpose of funding administration of blind services

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.	\$33,108
From Federal Funds	3,670,207
From Blind Pension Fund.	<u>1,056,185</u>
Total (Not to exceed 117.87 F.T.E.).	\$4,759,500

SECTION 11.170.— To the Department of Social Services

For the Family Support Division

For the purpose of funding services for the visually impaired

From Federal Funds.	\$5,083,258
From Blind Pension Fund.	1,549,503
From Donated Funds.	<u>99,995</u>
Total.	\$6,732,756

SECTION 11.175.— To the Department of Social Services

For the Family Support Division

For the purpose of funding Child Support Enforcement field staff and operations

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.	\$1,035,140
From Federal Funds	29,444,883
From Child Support Enforcement Collections Fund.	6,431,700

For the purpose of mediation services

From Child Support Enforcement Collections Fund.	<u>365,000</u>
Total (Not to exceed 947.46 F.T.E.).	\$37,276,723

SECTION 11.180.— To the Department of Social Services

For the Family Support Division

For the purpose of funding payments to private agencies collecting child support orders and arrearages

From Federal Funds.	\$990,000E
From Child Support Enforcement Collections Fund.	<u>510,000E</u>
Total.	\$1,500,000

SECTION 11.185.— To the Department of Social Services

For the Family Support Division

For the purpose of funding contractual agreements with local governments in

certain paternity establishment and child support enforcement cases From Federal Funds. From Child Support Enforcement Collections Fund. Total.	\$1,270,000 653,000 \$1,923,000
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SECTION 11.190.— To the Department of Social Services

For the Family Support Division

For the purpose of funding reimbursement to counties and the City of St. Louis
 providing child support enforcement services

From Federal Funds.	\$12,700,000E
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SECTION 11.195.— To the Department of Social Services

For the Family Support Division

For the purpose of funding payment to the federal government for reimbursement
 of federal Temporary Assistance for Needy Families payments, incentive
 payments to local governments and other states, refunds of bonds, refunds
 of support payments or overpayments, and distributions to families

From Federal Funds.	\$31,500,000E
From Debt Offset Escrow Fund.	9,000,000E
Total.	\$40,500,000

SECTION 11.200.— There is transferred out of the State Treasury from the

Department of Social Services Federal and Other Fund to the Job Development
 and Training Fund

From Federal Funds.	\$1,971,614
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SECTION 11.205.— There is transferred out of the State Treasury from the Debt
Offset Escrow Fund to the Department of Social Services Federal and Other
Fund and/or the Child Support Enforcement Collections Fund

From Debt Offset Escrow Fund.	\$700,000
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SECTION 11.210.— To the Department of Social Services

For the Children's Division

Personal Service and/or Expense and Equipment, provided that not more than
 twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.	\$1,052,454
From Federal Funds	5,828,219
From Early Childhood Trust Fund.	53,597

Expense and Equipment

From Third Party Liability Collections Fund.	163,323
Total (Not to exceed 108.30 F.T.E.).	\$7,097,593

SECTION 11.215.— To the Department of Social Services

For the Children's Division

For the Children's Division field staff and operations

Personal Service and/or Expense and Equipment, provided that not more than
 twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.	\$26,119,770
From Federal Funds	44,539,401
From Health Initiatives Fund.	92,955
Total (Not to exceed 1,942.60 F.T.E.).	\$70,752,126

SECTION 11.220.— To the Department of Social Services

For the Children's Division

For the purpose of funding Child Welfare Accreditation

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.	\$5,312,026
From Federal Funds.	<u>2,557,971</u>
Total (Not to exceed 146.50 F.T.E.).	\$7,869,997

SECTION 11.225.— To the Department of Social Services

For the Children's Division

For Children's Division staff training

From General Revenue Fund.	\$1,161,650
From Federal Funds.	<u>384,041</u>
Total.	\$1,545,691

SECTION 11.230.— To the Department of Social Services

For the Children's Division

For the purpose of funding children's treatment services including, but not limited to, home-based services, day treatment services, preventive services, child care, family reunification services, or intensive in-home services. At least \$50,000 additional general revenue monies will be used to increase provider reimbursement for day treatment services

From General Revenue Fund.	\$6,626,191
From Federal Funds.	<u>5,666,047</u>

For the purpose of funding crisis care

From General Revenue Fund.	<u>\$1,750,000</u>
Total.	\$14,042,238

SECTION 11.232.— To the Department of Social Services

For the Children's Division

For the purpose of funding grants to local community-based programs to strengthen the child welfare system locally to prevent child abuse and neglect and divert children from entering into the custody of the Children's Division through home visitation programs for at-risk infants

From General Revenue Fund.	\$500,000
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SECTION 11.235.— To the Department of Social Services

For the Children's Division

For the purpose of funding placement costs including foster care payments; related services; expenses related to training of foster parents; residential treatment placements and therapeutic treatment services; and for the diversion of children from inpatient psychiatric treatment and services provided through comprehensive, expedited permanency systems of care for children and families

From General Revenue Fund.	\$53,768,387
From Federal Funds.	<u>57,706,684</u>
Total.	\$111,475,071

SECTION 11.240.— To the Department of Social Services

For the Children's Division

For the purpose of providing comprehensive case management contracts through community-based organizations as described in Section 210.112, RSMo.

The purpose of these contracts shall be to provide a system of care for children living in foster care, independent living or residential care settings. Services eligible under this provision may include, but are not limited to, case management, foster care, residential treatment, intensive in-home services, family reunification services, and specialized recruitment and training of foster care families

From General Revenue Fund.....	\$11,694,500
From Federal Funds.	<u>8,705,325</u>
Total.	\$20,399,825

SECTION 11.245.— To the Department of Social Services

For the Children's Division

For the purpose of funding Adoption and Guardianship subsidy payments and related services

From General Revenue Fund.....	\$50,658,025
From Federal Funds.	<u>21,691,189</u>
Total.	\$72,349,214

SECTION 11.250.— To the Department of Social Services

For the Children's Division

For the purpose of funding independent living placements and transitional living payment services

From General Revenue Fund.....	\$1,690,790
From Federal Funds.	<u>3,373,228</u>
Total.	\$5,064,018

SECTION 11.255.— To the Department of Social Services

For the Children's Division

For the purpose of supplementing appropriations for children's treatment services; alternative care placement services; adoption subsidy services; independent living services; and services provided through comprehensive, expedited permanency systems of care for children and families

From General Revenue Fund.....	\$9,670,990
From Federal Funds.	<u>9,273,261</u>
Total.	\$18,944,251

SECTION 11.260.— To the Department of Social Services

For the Children's Division

For the purpose of funding Regional Child Assessment Centers

From General Revenue Fund.....	\$1,098,952
From Federal Funds.	<u>800,000</u>
Total.	\$1,898,952

SECTION 11.265.— To the Department of Social Services

For the Children's Division

For the purpose of funding diversion of children from inpatient psychiatric treatment and to provide services to reduce the number of children's inpatient medical hospitalization days

From General Revenue Fund.....	\$6,346,361
From Federal Funds.	<u>9,691,373</u>
Total.	\$16,037,734

SECTION 11.270.— To the Department of Social Services
 For the Children's Division
 For the purpose of funding residential placement payments to counties for children
 in the custody of juvenile courts
 From Federal Funds. \$700,000

SECTION 11.275.— To the Department of Social Services
 For the Children's Division
 For the purpose of funding the Child Abuse and Neglect Prevention Grant and
 Children Justice Act Grant
 From Federal Funds. \$188,316

SECTION 11.280.— To the Department of Social Services
 For the Children's Division
 For the purpose of funding transactions involving personal funds of
 children in the custody of the Children's Division or the Division
 of Youth Services
 From Alternative Care Trust Fund. \$12,000,000E

SECTION 11.285.— To the Department of Social Services
 For the Children's Division
 For the purpose of funding child care services, the general administration of the
 programs including development and implementation of automated systems
 to enhance time, attendance reporting, contract compliance and payment
 accuracy, and to support the Educare Program
 From General Revenue Fund. \$70,822,830
 From Federal Funds 106,588,222
 From Early Childhood Development, Education and Care Fund. 1,548,152

For the purpose of payments to accredited child care providers pursuant to
 Chapter 313, RSMo
 From Early Childhood Development, Education and Care Fund. 3,074,500

For the purpose of funding early childhood start-up and expansion grants pursuant
 to Chapter 313, RSMo
 From Early Childhood Development, Education and Care Fund. 3,689,400

For the purpose of funding early childhood development, education, and care
 programs for low-income families pursuant to Chapter 313, RSMo
 From Early Childhood Development, Education and Care Fund. 3,074,500

For the purpose of funding certificates to low-income, at-home families pursuant
 to Chapter 313, RSMo
 From Early Childhood Development, Education and Care Fund. 3,074,500
 Total. \$191,872,104

SECTION 11.290.— To the Department of Social Services
 For the Division of Youth Services
 For the purpose of funding Central Office and Regional Offices
 Personal Service and/or Expense and Equipment, provided that not more than
 twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.....	\$1,450,965
From Federal Funds.....	<u>668,281</u>
Total (Not to exceed 47.33 F.T.E.).....	\$2,119,246

SECTION 11.295.— To the Department of Social Services

For the Division of Youth Services

For the purpose of funding treatment services, including foster care and contractual payments

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.....	\$33,254,978
From Federal Funds	<u>13,436,647</u>

From DOSS Educational Improvement Fund	5,695,606
From Health Initiatives Fund	<u>128,245</u>

Expense and Equipment

From Youth Services Products Fund.....	<u>25,000E</u>
Total (Not to exceed 1,368.81 F.T.E.).....	\$52,540,476

SECTION 11.300.— To the Department of Social Services

For the Division of Youth Services

For the purpose of funding incentive payments to counties for community-based treatment programs for youth

From General Revenue Fund.....	\$3,767,880
From Gaming Commission Fund.....	<u>500,000</u>
Total.....	\$4,267,880

SECTION 11.400.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding administrative services. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spenddown amount

Personal Service and/or Expense and Equipment, provided that not more than twenty percent (20%) flexibility is allowed between each appropriation

From General Revenue Fund.....	\$3,844,986
From Federal Funds	8,606,047
From Pharmacy Rebates Fund	22,894
From Pharmacy Reimbursement Allowance Fund	24,035
From Health Initiatives Fund	317,742
From Nursing Facility Quality of Care Fund	86,171
From Third Party Liability Collections Fund.....	828,598
From Missouri Rx Plan Fund.....	<u>746,396</u>
Total (Not to exceed 263.71 F.T.E.).....	\$14,476,869

SECTION 11.410.— There is transferred out of the State Treasury from the General

Revenue Fund to the Healthcare Technology Fund for the purpose of funding

Healthcare Technology projects as appropriated by the General Assembly

From General Revenue Fund.....	\$25,000,000
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SECTION 11.415.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding health care technology projects and initiatives to improve the delivery of care, reduce administrative burdens, and reduce waste, fraud and abuse provided that up to one million dollars (\$1,000,000), be used for the purpose of providing matching funds for an electronic medical records pilot project in the Metropolitan St. Louis region. Such pilot project shall provide a system which integrates all health care records within a single database and utilizes technology that can be easily shared with other health providers and may be replicated beyond its immediate population. The initial project shall include up to 300,000 individuals and incorporate the patient base of at least 200 physicians. The contractor shall be required to provide at least seven million dollars (\$7,000,000) in matching contributions to the project. Said match may be a combination of cash and in-kind. And, provided that up to four hundred thousand dollars (\$400,000), be used for the purpose of funding a community-based care coordinating program that includes in-home visits and/or phone contact by a nurse care manager or electronic monitor. The purpose of such program shall be to ensure that patients are discharged from hospitals to an appropriate level of care and services and that targeted Medicaid beneficiaries with chronic illnesses and high-risk pregnancies receive care in the most cost-effective setting. Areas of implementation shall include, but not be limited to, Greene County. The Division of Medical Services' Disease Management Program shall administer the project

From Healthcare Technology Fund.....	\$4,950,000
From Federal Funds.	<u>4,600,000</u>
Total.	\$9,550,000

SECTION 11.420.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding cost saving measures under contract for the pharmacy program administration directed at Medicaid fee-for-service and managed care programs. The contracted services include, but are not limited to, Prospective Drug Use Review including, but not limited to, clinical edits, step therapy, dose optimization edits, prior authorization edits, early refill edits, maximum allowable quantities, maximum allowable drug pricing, preferred drug list, drug-to-drug interaction edits, drug-disease conflict edits, and drug-gender edits; Disease and Case Management services; and Retrospective Drug Use review including, but not limited to, population based reviews, provider education, provider help desk services, clinical criteria, drug information services and support, and ad hoc drug utilization reporting. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spenddown amount. Provided, however, that for fee for services eligible policies for prescribing psychotropic medications will not include any new limits to initial access requirements (except dose optimization, or new drug combinations consisting of one or more existing drug entities or preference algorithms for SSRI antidepressants) for persons with mental illness diagnosis, or other illnesses for which treatment with psychotropic medications are indicated and the drug has been approved by the FDA for at least one indication and is a recognized treatment in one of the standard reference compendia or in substantially accepted peer reviewed medical literature and deemed medically

appropriate for a diagnosis. No restrictions to access shall be imposed that preclude availability of any individual atypical antipsychotic monotherapy for the treatment of schizophrenia, bipolar disorder, or psychosis associated with severe depression

From General Revenue Fund.....	\$2,301,123
From Federal Funds	3,602,788
From Third Party Liability Collections Fund.	924,911
From Missouri Rx Plan Fund.	4,160,894
Total (0 F.T.E.).	<u>\$10,989,716</u>

SECTION 11.425.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding women and minority health care outreach programs.

The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spenddown amount

From General Revenue Fund.....	\$546,125
From Federal Funds.	568,625
Total.	<u>\$1,114,750</u>

SECTION 11.430.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding a revenue maximization unit in the Division of Medical

Services. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spenddown amount

Personal Service.	\$86,736
Expense and Equipment.....	8,114
From Federal Funds	<u>94,850</u>

Personal Service.	86,736
Expense and Equipment.....	<u>8,114</u>

From Federal Reimbursement Allowance Fund.....	94,850
Total (Not to exceed 4.00 F.T.E.).....	<u>\$189,700</u>

SECTION 11.435.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding fees associated with third-party collections and other revenue maximization cost avoidance fees. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spenddown amount

From Federal Funds.	\$3,000,000E
From Third Party Liability Collections Fund.	3,000,000E
Total.	<u>\$6,000,000</u>

SECTION 11.440.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding the operation of the information systems. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spenddown amount

From General Revenue Fund.....	\$5,697,417
From Federal Funds.	19,851,039
Total.	<u>\$25,548,456</u>

SECTION 11.445.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding contractor payments associated with managed care eligibility and enrollment of Medicaid recipients. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spenddown amount

From Federal Funds. \$1,910,113

SECTION 11.450.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding pharmaceutical payments under the Medicaid and Missouri Rx Plan authorized by Sections 208.780 through 208.798, RSMo and for Medicare Part D Clawback payments and for administration of these programs. The line item appropriations within this section may be used for any other purpose for which line item funding is appropriated within this section For the purpose of funding pharmaceutical payments under the Medicaid fee-for-service and managed care programs and for the purpose of funding professional fees for pharmacists and for a Comprehensive Chronic Care Risk Management program. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spenddown amount. Provided, however, that for fee for services eligible policies for prescribing psychotropic medications will not include any new limits to initial access requirements (except dose optimization, or new drug combinations consisting of one or more existing drug entities or preference algorithms for SSRI antidepressants) for persons with mental illness diagnosis, or other illnesses for which treatment with psychotropic medications are indicated and the drug has been approved by the FDA for at least one indication and is a recognized treatment in one of the standard reference compendia or in substantially accepted peer reviewed medical literature and deemed medically appropriate for a diagnosis. No restrictions to access shall be imposed that preclude availability of any individual atypical antipsychotic monotherapy for the treatment of schizophrenia, bipolar disorder, or psychosis associated with severe depression

From General Revenue Fund. \$138,209,439

From Federal Funds 415,079,815

From Life Sciences Research Trust Fund 38,500,000

From Pharmacy Rebates Fund 37,257,750E

From Third Party Liability Collections Fund. 5,271,334

From Pharmacy Reimbursement Allowance Fund 23,498,486

From Health Initiatives Fund 969,293

From Healthy Families Trust Fund-Health Care Account 1,041,034

From Premium Fund. 3,800,000

For the purpose of funding Part D Medicare clawback payments and for funding

Medicaid pharmacy payments as authorized by the provisions of Section 11.450, RSMo

From General Revenue Fund. 184,800,000

From Federal Funds 310,473,609

For the purpose of funding pharmaceutical payments under the Missouri Rx Plan authorized by Sections 208.780 through 208.798, RSMo

From Missouri Rx Plan Fund.	19,602,166E
Total.	\$1,178,502,926

SECTION 11.455.— There is transferred out of the State Treasury, chargeable to the Missouri Senior Rx Fund the unexpended and unobligated balance of the Missouri Senior Rx Fund to the Missouri Rx Plan Fund. This transfer shall not occur unless and until the notice requirements of Section 208.798, RSMo, has occurred

From Missouri Senior Rx Fund.	\$1E
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SECTION 11.460.— There is transferred out of the State Treasury from the General Revenue Fund to the Pharmacy Reimbursement Allowance Fund

From General Revenue Fund.	\$30,000,000E
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SECTION 11.465.— There is transferred out of the State Treasury from the Pharmacy Reimbursement Allowance Fund to the General Revenue Fund as a result of recovering the Pharmacy Reimbursement Allowance Fund

From Pharmacy Reimbursement Allowance Fund.	\$30,000,000E
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SECTION 11.470.— To the Department of Social Services
For the Division of Medical Services

For the purpose of funding physician services and related services including, but not limited to, clinic and podiatry services, physician-sponsored services and fees, laboratory and x-ray services, and family planning services under the Medicaid fee-for-service and managed care programs and for a Comprehensive Chronic Care Improvement Plan and Major Medical Prior Authorization. At least three million, five hundred thousand dollars (\$3,500,000) additional monies will be used to increase physicians' reimbursements. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spenddown amount

From General Revenue Fund.	\$151,525,007
From Federal Funds	265,563,309
From Third Party Liability Collections Fund.	1,906,107
From Health Initiatives Fund	1,247,544
From Healthy Families Trust Fund-Health Care Account.	1,041,034
Total.	\$421,283,001

SECTION 11.475.— To the Department of Social Services
For the Division of Medical Services

For the purpose of funding dental services under the Medicaid fee-for-service and managed care programs. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spenddown amount

From General Revenue Fund.	\$2,658,126
From Federal Funds	5,784,920
From Health Initiatives Fund	71,162
From Healthy Families Trust Fund-Health Care Account.	848,773
Total.	\$9,362,981

SECTION 11.480.— To the Department of Social Services
For the Division of Medical Services

For the purpose of funding payments to third-party insurers, employers, or policyholders for health insurance. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spenddown amount

From General Revenue Fund.	\$55,403,185
From Federal Funds.	<u>90,726,492</u>
Total.	\$146,129,677

SECTION 11.485.— To the Department of Social Services

For the Division of Medical Services

For funding long-term care services

For the purpose of funding care in nursing facilities or other long-term care services under the Medicaid fee-for-service and managed care programs and for contracted services to develop model policies and practices that improve the quality of life for long term care residents. At least ten million, eight hundred thousand dollars (\$10,800,000) additional monies will be used to increase nursing facilities' reimbursements. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spenddown amount

From General Revenue Fund.	\$127,882,900
From Federal Funds	306,109,043
From Uncompensated Care Fund	58,516,478
From Nursing Facility Federal Reimbursement Allowance Fund	1,072,064
From Healthy Families Trust Fund-Health Care Account	17,973
From Third Party Liability Collections Fund.	2,592,981

For the purpose of funding home health and Program for All-Inclusive Care for the Elderly, or other long-term care services under the Medicaid fee-for-service and managed care programs. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spenddown amount

From General Revenue Fund.	4,763,456
From Federal Funds	7,360,331
From Health Initiatives Fund.	<u>159,305</u>
Total.	\$508,474,531

SECTION 11.490.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding all other non-institutional services including, but not limited to, rehabilitation, optometry, audiology, ambulance, non-emergency medical transportation, durable medical equipment, and eyeglasses under the Medicaid fee-for-service and managed care programs. A portion of this funding allows for contracted services related to prior authorization of certain Medicaid services. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spenddown amount

From General Revenue Fund.	\$49,720,414
From Federal Funds	86,201,994
From Healthy Families Trust Fund-Health Care Account	831,745
From Health Initiatives Fund	194,881

For the purpose of funding non-emergency medical transportation. The single

agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spenddown amount

From General Revenue Fund.....	11,069,594
From Federal Funds.	18,792,519

For the purpose of funding the federal share of Medicaid reimbursable non-emergency medical transportation for public entities

From Federal Funds.	\$5,650,444
Total.	\$172,461,591

SECTION 11.495.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding the payment to comprehensive prepaid health care plans or for payments to providers of health care services for persons eligible for medical assistance under the Medicaid fee-for-service programs or State Medical Program as provided by federal or state law or for payments to programs authorized by the Frail Elderly Demonstration Project Waiver as provided by the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508, Section 4744) and by Section 208.152 (16), RSMo. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spenddown amount

From General Revenue Fund.....	\$173,972,073
From Federal Funds	567,439,782
From Medicaid Managed Care Organization Reimbursement Allowance Fund.	47,918,434
From Health Initiatives Fund	9,055,080
From Federal Reimbursement Allowance Fund.....	109,065,009
From Healthy Families Trust Fund-Health Care Account.	4,447,110
Total.	\$911,897,488

SECTION 11.500.— There is transferred out of the State Treasury from the General Revenue Fund to the Medicaid Managed Care Organization Reimbursement Allowance Fund

From General Revenue Fund.....	\$21,400,000E
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SECTION 11.505.— There is transferred out of the State Treasury from the Medicaid Managed Care Reimbursement Allowance Fund to the General Revenue Fund as a result of recovering the Medicaid Managed Care Organization Reimbursement Allowance Fund

From Medicaid Managed Care Organization Reimbursement Allowance Fund	\$21,400,000E
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SECTION 11.510.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding hospital care under the Medicaid fee-for-service and managed care programs, and for a Comprehensive Chronic Care Risk Management Program. The Division of Medical Services may adjust SFY 2007 costs of the uninsured payments to hospitals to reflect the impact on hospitals of the elimination of Medicaid coverage for adults with incomes above the TANF level and who were covered through a Section 1931 transfer. The Division of Medical Services shall track payments to out-of-state hospitals by location and by services for adults and by services for children. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spenddown amount

From General Revenue Fund.	\$36,326,369
From Federal Funds	396,188,004
From Uncompensated Care Fund	32,483,522
From Federal Reimbursement Allowance Fund.	129,642,328
From Health Initiatives Fund	2,797,179
From Third Party Liability Collections Fund.	1,062,735
From Healthy Families Trust Fund-Health Care Account	2,365,987

For Safety Net Payments

From Healthy Families Trust Fund-Health Care Account	30,365,444
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For Graduate Medical Education

From Healthy Families Trust Fund-Health Care Account	10,000,000
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For the purpose of funding a community-based care coordinating program that includes in-home visits and/or phone contact by a nurse care manager or electronic monitor. The purpose of such program shall be to ensure that patients are discharged from hospitals to an appropriate level of care and services and that targeted Medicaid beneficiaries with chronic illnesses and high-risk pregnancies receive care in the most cost-effective setting. Areas of implementation shall include, but not be limited to, Greene County. The project shall be contingent upon adoption of an offsetting increase in the applicable provider tax and administered by the Division of Medical Services' Disease Management Program

From Federal Funds	200,000
From Federal Reimbursement Allowance Fund.	200,000

For the purpose of funding hospital care under the Medicaid fee-for-service and managed care programs, and funding costs incurred by hospitals for the staffing of the emergency department with Medicaid enrolled physicians of Level I, II, III Trauma Centers as defined by the Department of Health and Senior Services and Critical Access Hospitals as defined by the Department of Social Services, Division of Medical Services, contingent upon adoption of an offsetting increase in the applicable provider tax

From Federal Funds	30,000,000E
From Federal Reimbursement Allowance Fund.	20,000 000E

For the purpose of continuing funding in Southwest Missouri and metropolitan Kansas City Regions of the pager project facilitating medication compliance for the chronically ill. \$130,000 shall be for a pilot in Newton County, Jasper County, Barry County and St. Louis City to provide medication reminder program to 300 chronic asthmatics identified by the Division as having high utilization of acute care because of poor management of their condition. The project shall be contingent upon adoption of an offsetting increase in the applicable provider tax and administered by the Division of Medical Services' Disease Management Program

From Federal Funds	215,000
From Federal Reimbursement Allowance Fund.	215,000
Total.	\$692,061,568

SECTION 11.515.— To the Department of Social Services

For the Division of Medical Services

For payment to Tier 1 Safety Net Hospitals, by maximizing eligible costs for federal Medicaid funds, utilizing current state and local funding sources as match for services that are not currently matched with federal Medicaid payments
 From Federal Funds. \$23,000,000

SECTION 11.520.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding grants to Federally Qualified Health Centers

From General Revenue Fund. \$9,000,000

SECTION 11.525.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding payments to hospitals under the Federal Reimbursement Allowance Program and for the expenses of the Poison Control Center in order to provide services to all hospitals within the state. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spenddown amount

From Federal Reimbursement Allowance Fund. \$385,000,000E

SECTION 11.530.— To the Department of Social Services

For the Division of Medical Services

For funding extended women's health services using fee-for-service, prepaid health plans, or other alternative service delivery and reimbursement methodology approved by the director of the Department of Social Services. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spenddown amount

From General Revenue Fund. \$699,444

From Federal Funds 1,696,516

From Federal Reimbursement Allowance Fund. 167,756

From Pharmacy Reimbursement Allowance Fund 30,411

For the purpose of funding health care services provided to uninsured adults through local initiatives for the uninsured. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spenddown amount

From Federal and Other Funds. 1E

Total. \$2,594,128

SECTION 11.535.— To the Department of Social Services

For the Division of Medical Services

For funding programs to enhance access to care for uninsured children using fee-for-services, prepaid health plans, or other alternative service delivery and reimbursement methodology approved by the director of the Department of Social Services. Provided that families of children receiving services under this section shall pay the following premiums to be eligible to receive such services: zero percent on the amount of a family's income which is less than 150 percent of the federal poverty level; four percent on the amount of a family's income which is less than 185 percent of the federal poverty level but greater than 150 percent of the federal poverty level; eight percent on the amount of a family's income which is less than 225 percent of the federal poverty level but greater than 185 percent of the federal poverty level;

fourteen percent on the amount of a family's income which is less than 300 percent of the federal poverty level but greater than 225 percent of the federal poverty level. Families with an annual income of more than 300 percent of the federal poverty level are ineligible for this program. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spenddown amount

From General Revenue Fund.	\$23,027,183
From Medicaid Managed Care Organization Reimbursement Allowance Fund . .	1,071,200
From Federal Funds	102,954,275
From Federal Reimbursement Allowance Fund.	7,719,204
From Health Initiatives Fund	5,375,576
From Pharmacy Rebates Fund	225,430
From Pharmacy Reimbursement Allowance Fund	201,394
From Premium Fund.	6,000,000
Total.	\$146,574,262

SECTION 11.540.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding uncompensated care payments to the St. Louis

Regional Disproportionate Share Hospital funding authority

From Federal Funds. \$25,000,000E

SECTION 11.545.— There is transferred out of the State Treasury from the General

Revenue Fund to the Federal Reimbursement Allowance Fund

From General Revenue Fund. \$180,000,000E

SECTION 11.550.— There is transferred out of the State Treasury from the Federal

Reimbursement Allowance Fund to the General Revenue Fund as a result of recovering the Federal Reimbursement Allowance Fund

From Federal Reimbursement Allowance Fund. \$180,000,000E

SECTION 11.555.— There is transferred out of the State Treasury from the

General Revenue Fund to the Nursing Facility Federal Reimbursement Allowance Fund

From General Revenue Fund. \$120,000,000E

SECTION 11.560.— There is transferred out of the State Treasury from the

Nursing Facility Federal Reimbursement Allowance Fund to the General Revenue Fund as a result of recovering the Nursing Facility Federal Reimbursement Allowance Fund

From Nursing Facility Federal Reimbursement Allowance Fund. \$120,000,000E

SECTION 11.565.— There is transferred out of the State Treasury from the

Nursing Facility Federal Reimbursement Allowance Fund to the Nursing Facility Quality of Care Fund

From Nursing Facility Federal Reimbursement Allowance Fund. \$1,500,000

SECTION 11.570.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding Nursing Facility Federal Reimbursement Allowance payments as provided by law. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's

spenddown amount
 From Nursing Facility Federal Reimbursement Allowance Fund. \$217,000,000E

SECTION 11.575.— To the Department of Social Services
 For the Division of Medical Services

For the purpose of funding Medicaid services for the Department of Elementary and Secondary Education under the Medicaid fee-for-service and managed care programs. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spenddown amount

From General Revenue Fund. \$69,954
 From Federal Funds 33,299,954E
 Total. \$33,369,908

SECTION 11.580.— To the Department of Social Services
 For the Division of Medical Services

For the purpose of funding medical benefits for recipients of the State Medical programs, including coverage in managed care programs. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spenddown amount

From General Revenue Fund. \$25,486,493
 From Health Initiatives Fund 353,437
 From Pharmacy Reimbursement Allowance Fund. 535,223
 Total. \$26,375,153

SECTION 11.585.— To the Department of Social Services
 For the Division of Medical Services

For the purpose of supplementing appropriations for any medical service under the Medicaid fee-for-service, managed care, or State Medical programs, including related services. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spenddown amount

From Federal Funds. \$24,107,486E
 From Premium Fund. 3,837,940
 From Third Party Liability Collections Fund. 7,571,156
 From Uncompensated Care Fund 1E
 From Pharmacy Rebates Fund 1E
 From Federal Reimbursement Allowance Fund. 1E
 From Nursing Facility Federal Reimbursement Allowance Fund. 181,500
 Total. \$35,698,085

BILL TOTALS

General Revenue Fund. \$1,415,767,492
 Federal Funds. 3,439,130,872
 Other Funds. 1,322,144,638
 Total. \$6,177,043,002

Approved June 29, 2006

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: CHIEF EXECUTIVE'S OFFICE AND MANSION, LIEUTENANT GOVERNOR, SECRETARY OF STATE, STATE AUDITOR, STATE TREASURER, ATTORNEY GENERAL, MISSOURI PROSECUTING ATTORNEYS AND CIRCUIT ATTORNEYS RETIREMENT SYSTEMS, JUDICIARY, OFFICE OF STATE PUBLIC DEFENDER, GENERAL ASSEMBLY, MISSOURI COMMISSION ON INTERSTATE COOPERATION, COMMITTEE ON LEGISLATIVE RESEARCH, VARIOUS JOINT COMMITTEES, AND INTERIM COMMITTEES.

AN ACT to appropriate money for the expenses, grants, refunds, and distributions of the Chief Executive's Office and Mansion, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, Attorney General, Missouri Prosecuting Attorneys and Circuit Attorneys Retirement Systems, and the Judiciary and the Office of the State Public Defender, and the several divisions and programs thereof, and for the payment of salaries and mileage of members of the State Senate and the House of Representatives and contingent expenses of the General Assembly, including salaries and expenses of elective and appointive officers and necessary capital improvements expenditures; for salaries and expenses of members and employees and other necessary operating expenses of the Missouri Commission on Interstate Cooperation, the Committee on Legislative Research, various joint committees, for the expenses of the joint and interim committees established by the General Assembly, and to transfer money among certain funds, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the period beginning July 1, 2006 and ending June 30, 2007.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, and for no other purpose whatsoever chargeable to the fund designated, for the period beginning July 1, 2006 and ending June 30, 2007 as follows:

SECTION 12.005. — To the Governor

Personal Service and/or Expense and Equipment.	\$1,892,606
Personal Service and/or Expense and Equipment for the Mansion.	138,144
From General Revenue Fund (Not to exceed 34.00 F.T.E.).	\$2,030,750

SECTION 12.010. — To the Governor

For expenses incident to emergency duties performed by the National Guard when ordered out by the Governor

From General Revenue Fund.	\$1E
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SECTION 12.015. — To the Governor

For conducting special audits

From General Revenue Fund.	\$30,000
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SECTION 12.020. — To the Governmental Emergency Fund Committee

For allocation by the committee to state agencies that qualify for emergency or supplemental funds under the provisions of Section 33.720, RSMo

From General Revenue Fund.	\$1E
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SECTION 12.025.— To the Lieutenant Governor

Personal Service and/or Expense and Equipment
From General Revenue Fund (Not to exceed 8.50 F.T.E.). \$424,734

SECTION 12.027.— To the Lieutenant Governor

For the Veterans Remembrance Project
From General Revenue Fund. \$300,000

SECTION 12.030.— To the Secretary of State

Personal Service and/or Expense and Equipment
From General Revenue Fund. \$9,471,754
From Federal Funds 779,286
From Secretary of State's Technology Trust Fund Account. 3,006,637
From Local Records Preservation Fund 1,467,080
From Secretary of State - Wolfner Library Trust Fund 14,500
From Investor Education and Protection Fund. 587,688
Total (Not to exceed 262.30 F.T.E.). \$15,326,945

SECTION 12.035.— To the Secretary of State

For the purpose of receiving and expending grants, donations, contracts, and payments
from private, federal, or other governmental agencies provided that the General
Assembly shall be notified of the source of any new funds and the purpose for
which they will be expended, in writing, prior to the expenditure of said funds
From Federal and Other Funds. \$200,000E

SECTION 12.040.— To the Secretary of State

For costs related to the publication of the State's Official Manual
From General Revenue Fund. \$10,000

SECTION 12.045.— To the Secretary of State

For refunds of securities, corporations, uniform commercial code, and miscellaneous
collections of the Secretary of State's Office
From General Revenue Fund. \$50,000E

SECTION 12.050.— To the Secretary of State

For reimbursement to victims of securities fraud and other violations pursuant to
Section 409.407, RSMo
From Investors Restitution Fund. \$55,000E

SECTION 12.055.— To the Secretary of State

For expenses of initiative referendum and constitutional amendments
From General Revenue Fund. \$1,600,000E

SECTION 12.060.— To the Secretary of State

For election costs associated with absentee ballots
From General Revenue Fund. \$50,000E

SECTION 12.065.— To the Secretary of State

For costs associated with providing provisional ballots and voter registration applications
From General Revenue Fund. \$21,395

SECTION 12.070.— To the Secretary of State

For election reform grants, transactions costs, and support of Help America Vote

Act activities

From Federal Funds.	\$25,408,941E
From Election Administration Improvement Fund.	<u>3,466,039E</u>
Total.	\$28,874,980

SECTION 12.075.— There is transferred out of the State Treasury, chargeable to the General Revenue Fund such amounts as may become necessary, to the State Elections Subsidy Fund

From General Revenue Fund.	\$4,284,000
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SECTION 12.080.— To the Secretary of State

For the state's share of special election costs as required by Chapter 115, RSMo

From State Elections Subsidy Fund.	\$400,000E
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SECTION 12.085.— There is transferred out of the State Treasury, chargeable to the State Elections Subsidy Fund, to the Election Administration Improvement Fund

From State Elections Subsidy Fund.	\$3,784,000E
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SECTION 12.090.— To the Secretary of State

For historical repository grants

From Federal Funds.	\$15,000
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SECTION 12.095.— To the Secretary of State

For the preservation of nationally significant records at the local level

From Federal Funds (Not to exceed 4.00 F.T.E.).	\$228,060
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SECTION 12.100.— To the Secretary of State

For local records preservation grants

From Local Records Preservation Fund.	\$400,000E
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SECTION 12.105.— To the Secretary of State

For preserving legal, historical, and genealogical materials and making them available to the public

From State Document Preservation Fund.	\$361,858E
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For costs related to establishing and operating a St. Louis Record Center

From Missouri State Archives - St. Louis Trust Fund	<u>12,000,000E</u>
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Total (Not to exceed 4.00 F.T.E.).	\$12,361,858
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SECTION 12.110.— To the Secretary of State

For aid to public libraries

From General Revenue Fund.	\$3,001,744
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SECTION 12.115.— To the Secretary of State

For the Remote Electronic Access for Libraries (REAL) Program

From General Revenue Fund.	\$2,959,250
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SECTION 12.120.— To the Secretary of State

For the Literacy Investment for Tomorrow (LIFT) Program

From General Revenue Fund.	\$69,450
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SECTION 12.125.— To the Secretary of State

For all allotments, grants, and contributions from the federal government or from
any sources that may be deposited in the State Treasury for the use of the
Missouri State Library

From Federal Funds. \$2,750,000E

SECTION 12.130.— To the Secretary of State

For library networking grants and other grants and donations

From Library Networking Fund. \$1,000,001E

SECTION 12.135.— To the Secretary of State

There is transferred out of the State Treasury, chargeable to the General Revenue Fund,
to the Library Networking Fund

From General Revenue Fund. \$550,000

SECTION 12.140.— To the State Auditor

Personal Service and/or Expense and Equipment

From General Revenue Fund. \$6,843,092

From Federal Funds 484,710

From Conservation Commission Fund. 43,180

From Parks Sales Tax Fund. 20,262

From Soil and Water Sales Tax Fund 19,538

From Petition Audit Revolving Trust Fund. 797,696

Total (Not to exceed 168.77 F.T.E.). \$8,208,478

SECTION 12.145.— To the State Treasurer

Personal Service and/or Expense and Equipment

From State Treasurer's General Operations Fund. \$1,729,744

From Central Check Mailing Service Revolving Fund. 246,659E

From Workers' Compensation - Second Injury Fund. 42,670

For Unclaimed Property Division administrative costs including personal service,
expense and equipment for auctions, advertising, and promotions

From Abandoned Fund Account. 811,300E

For preparation and dissemination of information or publications, or for refunding
overpayments

From Treasurer's Information Fund. 8,000

Total (Not to exceed 49.40 F.T.E.). \$2,838,373

SECTION 12.150.— To the State Treasurer

For issuing duplicate checks or drafts and outlawed checks as provided by law

From General Revenue Fund. \$1,000,000E

SECTION 12.155.— To the State Treasurer

For payment of claims for abandoned property transferred by holders to the state

From Abandoned Fund Account. \$16,000,000E

SECTION 12.160.— To the State Treasurer

For transfer of such sums as may be necessary to make payment of claims from
the Abandoned Fund Account pursuant to Chapter 447, RSMo

From General Revenue Fund. \$1E

SECTION 12.165.— To the State Treasurer

There is transferred out of the State Treasury, chargeable to the Abandoned

Fund Account, to the General Revenue Fund

From Abandoned Fund Account. \$22,500,000E

SECTION 12.170.— To the State Treasurer

For refunds of excess interest from the Linked Deposit Program

From General Revenue Fund. \$100E

SECTION 12.175.— To the State TreasurerThere is transferred out of the State Treasury, chargeable to the funds listed below,
to the Missouri Investment Trust Fund, contingent upon passage of legislation
authorizing conveyance of the following funds to the Trust

From Missouri Arts Council Trust Fund. \$2,000,000E

From Missouri Humanities Council Trust Fund. 1,000,000E

From Secretary of State - Wolfner Library Fund. 375,000E

Total. \$3,375,000

SECTION 12.180.— To the State Treasurer

There is transferred out of the State Treasury, chargeable to the Debt Offset

Escrow Fund, to the General Revenue Fund

From Debt Offset Escrow Fund. \$150,000E

SECTION 12.185.— To the State TreasurerThere is transferred out of the State Treasury, chargeable to various funds, to
the General Revenue Fund

From Various Funds. \$1E

SECTION 12.190.— To the State Treasurer

There is transferred out of the State Treasury, chargeable to the Abandoned Fund

Account, to the State Public School Fund

From Abandoned Fund Account. \$1,000,000E

SECTION 12.195.— To the Attorney General

Personal Service and/or Expense and Equipment

From General Revenue Fund. \$13,035,753

From Federal Funds 2,123,775

From Gaming Commission Fund. 133,756

From Natural Resources Protection Fund-Water Pollution Permit Fee Subaccount. . . 39,226

From Solid Waste Management Fund 39,726

From Petroleum Storage Tank Insurance Fund 23,667

From Motor Vehicle Commission Fund 47,276

From Health Spa Regulatory Fund. 5,000

From Natural Resources Protection Fund-Air Pollution Permit Fee Subaccount. . . . 39,201

From Attorney General's Court Costs Fund 187,000

From Soil and Water Sales Tax Fund 13,764

From Merchandising Practices Revolving Fund. 2,526,725

From Workers' Compensation Fund. 452,944

From Workers' Compensation - Second Injury Fund. 2,740,121

From Lottery Enterprise Fund 52,084

From Attorney General's Anti-Trust Fund. 603,002

From Hazardous Waste Fund.	282,200
From Safe Drinking Water Fund.	13,787
From Inmate Incarceration Reimbursement Act Revolving Fund	76,553
From Mined Land Reclamation Fund.	13,759
Total (Not to exceed 404.05 F.T.E.).	<u>\$22,449,319</u>

SECTION 12.200.— To the Attorney General

For law enforcement, domestic violence, and victims' services

Expense and Equipment

From Federal Funds.	\$100,000
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SECTION 12.205.— To the Attorney General

For a Medicaid fraud unit

Personal Service and/or Expense and Equipment

From General Revenue Fund.	\$307,674
From Federal Funds.	<u>1,562,461</u>
Total (Not to exceed 23.00 F.T.E.).	<u>\$1,870,135</u>

SECTION 12.210.— To the Attorney General

For the Missouri Office of Prosecution Services

Personal Service and/or Expense and Equipment

From Federal Funds.	\$1,062,821
From Missouri Office of Prosecution Services Fund.	1,484,677
From Missouri Office of Prosecution Services Revolving Fund.	<u>150,000E</u>
Total (Not to exceed 9.00 F.T.E.).	<u>\$2,697,498</u>

SECTION 12.215.— To the Attorney General

For the Missouri Office of Prosecution Services

There is transferred out of the State Treasury, chargeable to the Attorney General

Federal Fund, to the Missouri Office of Prosecution Services Fund

From Federal Funds.	\$100,000
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SECTION 12.220.— To the Attorney General

For the fulfillment or failure of conditions, or other such developments, necessary to determine the appropriate disposition of such funds, to those individuals, entities, or accounts within the State Treasury, certified by the Attorney General as being entitled to receive them

Expense and Equipment

From Attorney General Trust Fund.	\$1E
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SECTION 12.225.— To the Attorney General

There is transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Attorney General's Court Costs Fund

From General Revenue Fund.	\$165,600
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SECTION 12.230.— To the Attorney General

There is transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Attorney General's Anti-Trust Fund

From General Revenue Fund.	\$69,000
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SECTION 12.300.— To the Supreme Court

For the purpose of funding Judicial Proceedings and Review

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation
 From General Revenue Fund. \$4,276,345

Personal Service
 From Federal Funds 457,184

Expense and Equipment
 From Supreme Court Publications Revolving Fund 150,000

For the purpose of funding basic legal services
 Personal Service. 48,984
 Expense and Equipment 10,266
 Program Specific Distribution. 3,200,000
 From Basic Civic Legal Services Fund. 3,259,250
 Total (Not to exceed 83.00 F.T.E.). \$8,142,779

SECTION 12.305.— To the Supreme Court

For the purpose of funding the State Courts Administrator
 Personal Service. \$3,050,825
 Expense and Equipment. 529,892
 From General Revenue Fund. 3,580,717

For the purpose of implementing and supporting an integrated case management system
 Personal Service. 2,923,448
 Expense and Equipment. 4,254,937
 From General Revenue Fund. 7,178,385

Expense and Equipment
 From State Court Administration Revolving Fund 30,000

Expense and Equipment
 From Crime Victims' Compensation Fund. 887,200
 Total (Not to exceed 136.00 F.T.E.). \$11,676,302

SECTION 12.310.— To the Supreme Court

For the purpose of funding all grants and contributions of funds from the federal government or from any other source which may be deposited in the State Treasury for the use of the Supreme Court and other state courts
 Personal Service. \$2,045,345
 Expense and Equipment 5,285,917E
 From Federal Funds 7,331,262

Personal Service. 29,166
 Expense and Equipment. 300
 From Basic Civil Legal Services Fund. 29,466
 Total (Not to exceed 45.25 F.T.E.). \$7,360,728

SECTION 12.315.— To the Supreme Court

For the purpose of developing and implementing a program of statewide court automation
 Personal Service. \$1,471,413

Expense and Equipment	2,885,181E
From the Statewide Court Automation Fund, and any grants, contributions, or receipts from federal government or any other source deposited into the State Treasury for court automation (Not to exceed 34.00 F.T.E.).	\$4,356,594

SECTION 12.320.— There is transferred out of the State Treasury, chargeable to
the General Revenue Fund, to the Judicial Education and Training Fund
From General Revenue Fund. \$1,395,363

SECTION 12.325.— To the Supreme Court
For the purpose of funding judicial education and training
Expense and Equipment
From Federal Funds. \$225,000

Personal Service.	582,975
Expense and Equipment.	1,033,445
From Judicial Education and Training Fund.	<u>1,616,420</u>
Total (Not to exceed 13.00 F.T.E.).	\$1,841,420

SECTION 12.330.— To the Supreme Court
For the purpose of funding the Court of Appeals-Western District
Personal Service and/or Expense and Equipment, provided that not more than
ten percent (10%) flexibility is allowed between each appropriation
From General Revenue Fund (Not to exceed 53.50 F.T.E.). \$3,486,931

SECTION 12.335.— To the Supreme Court
For the purpose of funding the Court of Appeals - Eastern District
Personal Service and/or Expense and Equipment, provided that not more than
ten percent (10%) flexibility is allowed between each appropriation
From General Revenue Fund (Not to exceed 73.75 F.T.E.). \$4,524,948

SECTION 12.340.— To the Supreme Court
For the purpose of funding the Court of Appeals - Southern District
Personal Service and/or Expense and Equipment, provided that not more than
ten percent (10%) flexibility is allowed between each appropriation
From General Revenue Fund (Not to exceed 31.60 F.T.E.). \$2,150,704

SECTION 12.345.— To the Supreme Court
For the purpose of funding the Circuit Courts
Personal Service and/or Expense and Equipment, provided that not more than
ten percent (10%) flexibility is allowed between each appropriation. . . . \$112,231,048
Cost of living salary adjustment. 873,237
Expense and Equipment. 2,422,921
From General Revenue Fund. 115,527,206

Personal Service.	1,378,391
Expense and Equipment.	<u>308,805</u>
From Federal Funds	1,687,196

Personal Service.	74,406
Expense and Equipment.	<u>20,856</u>

From Domestic Relations Resolution Fund.	95,262
Personal Service.	238,028
Expense and Equipment.	<u>128,039</u>
From Third Party Liability Collections Fund.	366,067

Expense and Equipment	
From State Court Administration Revolving Fund.	<u>200,000</u>
Total (Not to exceed 2,905.70 F.T.E.).	\$117,875,731

SECTION 12.350.— To the Supreme Court

For the purpose of making payments due from litigants in court proceedings under set-off against debts authority as provided in Section 488.020(3), RSMo

From Circuit Courts Escrow Fund.	\$505,500E
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For the payment to counties for salaries of juvenile court personnel as provided by Sections 211.393 and 211.394, RSMo

From General Revenue Fund.	7,579,900
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For the purpose of funding court-appointed special advocacy programs as provided in Section 476.777, RSMo

From Missouri CASA Fund.	100,000E
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For the purpose of funding costs associated with creating the handbook and other programs as provided in Section 452.554, RSMo

From the Domestic Relations Resolution Fund.	<u>300,000</u>
Total.	\$8,485,400

SECTION 12.355.— There is transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Drug Court Resources Fund

From General Revenue Fund.	\$5,225,500
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SECTION 12.360.— To the Supreme Court

For the purpose of funding drug courts

Personal Service.	\$224,759
Expense and Equipment	<u>5,178,909E</u>
From the Drug Court Resources Fund, and any grants, contributions, or receipts from the federal government or any other source deposited into the State Treasury for drug courts (Not to exceed 4.00 F.T.E.).	<u>\$5,403,668</u>

SECTION 12.365.— To the Commission on Retirement, Removal, and Discipline of Judges

For the purpose of funding the expenses of the Commission

Personal Service and/or Expense and Equipment, provided that not more than ten percent (10%) flexibility is allowed between each appropriation	
From General Revenue Fund (Not to exceed 2.75 F.T.E.).	\$209,181

SECTION 12.370.— To the Supreme Court

For the purpose of funding the expenses of the members of the Appellate Judicial Commission and the several circuit judicial commissions in circuits having the non-partisan court plan, and for services rendered by clerks of the Supreme Court,

courts of appeals, and clerks in circuits having the non-partisan court plan for giving notice of and conducting elections as ordered by the Supreme Court
From General Revenue Fund..... \$7,741

SECTION 12.375.— To the Supreme Court

For the purpose of funding the Missouri Sentencing Advisory Commission
Personal Service. \$32,004
Expense and Equipment..... 92,951
From General Revenue Fund (Not to exceed 1.00 F.T.E.). \$124,955

***SECTION 12.400.**— To the Office of the State Public Defender

For the purpose of funding the State Public Defender System
Personal Service and/or Expense and Equipment. \$28,252,080
For payment of expenses as provided by Chapter 600, RSMo, associated with the defense of violent crimes and/or the defense of cases where a conflict of interest exists. 2,241,502
From General Revenue Fund..... 30,493,582

For expenses authorized by the Public Defender Commission as provided by Section 600.090, RSMo

Personal Service. 122,073
Expense and Equipment..... 1,850,756
From Legal Defense and Defender Fund 1,972,829

For refunds set-off against debts as required by Section 143.786, RSMo

From Debt Offset Escrow Fund 350,000E

For all grants and contributions of funds from the federal government or from any other source which may be deposited in the State Treasury for the use of the Office of the State Public Defender

From Federal Funds. 125,000
Total (Not to exceed 560.13 F.T.E.)..... \$32,941,411

*I hereby veto \$155,760 general revenue for parking expenses. Under Section 600.040.1, RSMo these expenses are the responsibility of the participating counties.

Personal Service and/or Expense and Equipment by \$155,760 from \$28,252,080 to 28,096,320 from General Revenue Fund.

From \$30,493,582 to \$30,337,822 in total from General Revenue Fund.

From \$32,941,411 to \$32,785,651 in total for the section.

MATT BLUNT, GOVERNOR

SECTION 12.500.— To the Senate

Salaries of Members. \$1,071,448
Mileage of Members. 56,435
Senate Per Diem .. 226,100
Senate Contingent Expenses..... 8,780,305
Joint Contingent Expenses. 100,000
From General Revenue Fund..... 10,234,288

Senate Contingent Expenses

From Senate Revolving Fund. 40,000

Total. \$10,274,288

SECTION 12.505.— To the House of Representatives

Salaries of Members.	\$5,117,283
Mileage of Members.	400,491
Members' Per Diem	1,290,960
Representatives' Expenses	1,565,479
House Contingent Expenses.	<u>10,784,796</u>
From General Revenue Fund.	19,159,009

House Contingent Expenses	
From House of Representatives Revolving Fund.	<u>45,000E</u>
Total.	\$19,204,009

SECTION 12.510.— To the Missouri Commission on Interstate Cooperation

For payment of dues

National Conference of State Legislatures.	\$155,042
National Conference of Commissioners of Uniform State Laws.	<u>36,000</u>
From General Revenue Fund.	\$191,042

SECTION 12.515.— To the Committee on Legislative Research - Administration

For payment of expenses of members, salaries and expenses of employees, and other necessary operating expenses

From General Revenue Fund.	\$1,216,207
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SECTION 12.520.— To the Committee on Legislative Research

For paper, printing, binding, editing, proofreading, and other necessary expenses of publishing the Supplement to the Revised Statutes of the State of Missouri

From General Revenue Fund.	\$166,679
From Statutory Revision Fund.	<u>108,567E</u>
Total.	\$275,246

SECTION 12.525.— To the Committee on Legislative Research - Oversight Division

For payment of expenses of members, salaries and expenses of employees, and other necessary operating expenses

From General Revenue Fund.	\$734,786
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SECTION 12.530.— To the Joint and Interim Committees of the General Assembly

For the payment of expenses of members, salaries and expenses of employees and other necessary operating expenses

Joint Committee on Corrections.	\$12,000
Joint Committee on Administrative Rules.	123,296
Joint Committee on Public Employee Retirement Systems.	160,525
Joint Committee on Capital Improvements Oversight.	122,965
Joint Committee on Transportation.	104,601
Joint Committee on Tax Policy.. . . .	<u>75,000</u>
From General Revenue Fund.	\$598,387

ELECTED OFFICIALS TOTALS

General Revenue Fund.	\$46,224,199
Federal Funds.	38,181,093
Other Funds.	<u>45,933,279</u>

Total. \$130,338,571

JUDICIARY TOTALS

General Revenue Fund. \$155,267,876
 Federal Funds. 9,700,642
 Other Funds. 10,279,339
 Total. \$175,247,857

PUBLIC DEFENDER TOTALS

General Revenue Fund. \$30,493,582
 Federal Funds. 125,000
 Other Funds. 1,972,829
 Total. \$32,591,411

GENERAL ASSEMBLY TOTALS

General Revenue Fund. \$32,300,398
 Other Funds. 193,567
 Total. \$32,493,965

Approved June 29, 2006

HB 1013 [CCS SCS HB 1013]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: LEASES AND CAPITAL IMPROVEMENTS.

AN ACT to appropriate money for real property leases, related services, utilities, systems furniture, and structural modifications for the several departments of state government and the divisions and programs thereof to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, and to appropriate money for capital improvements and the other expenses of the Office of Administration and the divisions and programs thereof, and to transfer money among certain funds for the period beginning July 1, 2006 and ending June 30, 2007.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, to be expended only as provided in Article IV, Section 28 of the Constitution of Missouri, for the purpose of funding each department, division, agency, and program enumerated in each section for the item or items stated, not including lease of property at 3101 Choteau, St. Louis, and for no other purpose whatsoever chargeable to the fund designated for the period beginning July 1, 2006 and ending June 30, 2007 as follows:

SECTION 13.005.— To the Office of Administration
 For the Division of Facilities Management, Design and Construction
 For the Department of Elementary and Secondary Education
 For the payment of real property leases, related services, utilities, systems
 furniture, and structural modifications

Expense and Equipment	
From General Revenue Fund	\$873,877
From Federal Funds	3,442,179
From Other Funds.	<u>19,175</u>
Total.	\$4,335,231

SECTION 13.010.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Department of Higher Education

For the Coordinating Board of Higher Education

For the payment of real property leases, related services, utilities, systems
furniture, and structural modifications

Expense and Equipment	
From General Revenue Fund.	\$78,202
From Other Funds.	<u>225,477</u>
Total.	\$303,679

SECTION 13.015.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Department of Revenue

For the payment of real property leases, related services, utilities, systems
furniture, and structural modifications

Expense and Equipment	
From General Revenue Fund.	\$1,319,899
From Other Funds.	<u>1,803,229</u>
Total.	\$3,123,128

SECTION 13.020.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Department of Revenue

For the Missouri State Lottery Commission

For the payment of real property leases, related services, utilities, systems
furniture, and structural modifications

Expense and Equipment	
From Other Funds.	\$344,047

SECTION 13.025.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Office of Administration

For the payment of real property leases, related services, utilities, systems
furniture, and structural modifications

Expense and Equipment	
From General Revenue Fund.	\$1,489,567
From Other Funds.	<u>1,299,686</u>
Total.	\$2,789,253

SECTION 13.030.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the payment of real property leases, related services, utilities, systems
furniture, and structural modifications

Expense and Equipment

From the Office of Administration Revolving Trust Fund.. . . . \$693,592E

SECTION 13.035.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Missouri Ethics Commission

For the payment of real property leases, related services, utilities, systems
furniture, and structural modifications

Expense and Equipment

From General Revenue Fund.. . . . \$80,274

SECTION 13.040.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Department of Agriculture

For the payment of real property leases, related services, utilities, systems
furniture, and structural modifications

Expense and Equipment

From General Revenue Fund.. . . . \$579,656

From Federal Funds 15,611

From Other Funds. 203,162

Total. \$798,429

SECTION 13.045.— To the Office of Administration

For the Department of Natural Resources

For the payment of real property leases, related services, utilities, systems
furniture, and structural modifications

Expense and Equipment

From General Revenue Fund.. . . . \$461,714

From any funds administered by the Department of Natural Resources

except General Revenue Fund. 2,540,326

Total. \$3,002,040

SECTION 13.050.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Department of Economic Development

For the payment of real property leases, related services, utilities, systems
furniture, and structural modifications

Expense and Equipment

From General Revenue Fund.. . . . \$414,370

From Federal Funds 2,817,536

From Other Funds. 1,668,735

Total. \$4,900,641

SECTION 13.055.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Department of Insurance

For the payment of real property leases, related services, utilities, systems
furniture, and structural modifications

Expense and Equipment

From Other Funds. \$417,381

SECTION 13.060.— To the Office of Administration

For the Division of Facilities Management, Design and Construction	
For the Department of Labor and Industrial Relations	
For the payment of real property leases, related services, utilities, systems furniture, and structural modifications	
Expense and Equipment	
From General Revenue Fund.	\$69,543
From Federal Funds	1,506,422
From Other Funds.	598,318
Total.	<u>\$2,174,283</u>

SECTION 13.065.— To the Office of Administration

For the Division of Facilities Management, Design and Construction	
For the Department of Public Safety	
For the payment of real property leases, related services, utilities, systems furniture, and structural modifications	
Expense and Equipment	
From General Revenue Fund.	\$520,179
From Federal Funds	47,716
From Other Funds.	102,222
Total.	<u>\$670,117</u>

SECTION 13.070.— To the Office of Administration

For the Division of Facilities Management, Design and Construction	
For the Department of Public Safety	
For the State Highway Patrol	
For the payment of real property leases, related services, utilities, systems furniture, and structural modifications	
Expense and Equipment	
From Federal Funds.	\$95,435
From Other Funds.	800,039
Total.	<u>\$895,474</u>

SECTION 13.075.— To the Office of Administration

For the Division of Facilities Management, Design and Construction	
For the Department of Public Safety	
For the Adjutant General	
For the payment of real property leases, related services, utilities, systems furniture, and structural modifications	
Expense and Equipment	
From Federal Funds.	\$1,127,921

For federally mandated lease requirements	
From Federal Funds.	43,108E
Total.	<u>\$1,171,029</u>

SECTION 13.080.— To the Office of Administration

For the Division of Facilities Management, Design and Construction	
For the Department of Public Safety	
For the Gaming Commission	
For the payment of real property leases, related services, utilities, systems furniture, and structural modifications	
Expense and Equipment	

From Gaming Commission Fund. \$524,704

SECTION 13.085.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Department of Corrections

For the payment of real property leases, related services, utilities, systems
furniture, and structural modifications

Expense and Equipment

From General Revenue Fund. \$7,325,072

From Other Funds. 181,224

Total. \$7,506,296

SECTION 13.090.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Department of Mental Health

For the payment of real property leases, related services, utilities, systems
furniture, and structural modifications

Expense and Equipment

From General Revenue Fund. \$2,526,861

From Federal Funds 206,029

From Other Funds. 10,338

Total. \$2,743,228

SECTION 13.095.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Department of Health and Senior Services

For the payment of real property leases, related services, utilities, systems
furniture, and structural modifications

Expense and Equipment

From General Revenue Fund. \$2,476,455

From Federal Funds 2,690,097

From Other Funds. 576,080

Total. \$5,742,632

SECTION 13.100.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Department of Social Services

For the payment of real property leases, related services, utilities, systems
furniture, and structural modifications

Expense and Equipment

From General Revenue Fund. \$15,999,654

From Federal Funds 7,216,240

From Other Funds. 428,132

Total. \$23,644,026

SECTION 13.105.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Governor's Office

For the payment of real property leases, related services, utilities, systems
furniture, and structural modifications

Expense and Equipment

From General Revenue Fund. \$318,759

SECTION 13.110.— To the Office of Administration
 For the Division of Facilities Management, Design and Construction
 For the Lieutenant Governor's Office
 For the payment of real property leases, related services, utilities, systems
 furniture, and structural modifications
 Expense and Equipment
 From General Revenue Fund. \$25,154

SECTION 13.115.— To the Office of Administration
 For the Division of Facilities Management, Design and Construction
 For the State Legislature
 For the payment of real property leases, related services, utilities, systems
 furniture, and structural modifications
 Expense and Equipment
 From General Revenue Fund. \$1,914,289

SECTION 13.120.— To the Office of Administration
 For the Division of Facilities Management, Design and Construction
 For the Secretary of State
 For the payment of real property leases, related services, utilities, systems
 furniture, and structural modifications
 Expense and Equipment
 From General Revenue Fund. \$1,195,069
 From Federal Funds 66,535
 From Other Funds. 92,198
 Total. \$1,353,802

SECTION 13.125.— To the Office of Administration
 For the Division of Facilities Management, Design and Construction
 For the State Auditor
 For the payment of real property leases, related services, utilities, systems
 furniture, and structural modifications
 Expense and Equipment
 From General Revenue Fund. \$210,215

SECTION 13.130.— To the Office of Administration
 For the Division of Facilities Management, Design and Construction
 For the Attorney General
 For the payment of real property leases, related services, utilities, systems
 furniture, and structural modifications
 Expense and Equipment
 From General Revenue Fund. \$584,651
 From Federal Funds 132,893
 From Other Funds. 749,687
 Total. \$1,467,231

SECTION 13.135.— To the Office of Administration
 For the Division of Facilities Management, Design and Construction
 For the State Treasurer
 For the payment of real property leases, related services, utilities, systems
 furniture, and structural modifications
 Expense and Equipment

From Other Funds. \$176,121

SECTION 13.140.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For the Judiciary

For the Office of State Courts Administrator

For the payment of real property leases, related services, utilities, systems
furniture, and structural modifications

Expense and Equipment

From General Revenue Fund. \$2,549,165

From Federal Funds 40,288

From Other Funds. 121,582

Total. \$2,711,035

SECTION 13.145.— To the Office of Administration

For the Division of Facilities Management, Design and Construction

For payment of rent shortfalls and other contingency needs

From General Revenue Fund. \$215,577

From Federal Funds 29,752

From Other Funds. 29,752

Total. \$275,081

BILL TOTALS

General Revenue Fund. \$41,228,202

Federal Funds. 20,006,708

Other Funds. 9,065,212

Total. \$70,300,122

Approved June 29, 2006

HB 1014 [CCS SCS HCS HB 1014]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: SUPPLEMENTAL PURPOSES.

AN ACT to appropriate money for supplemental purposes for the several departments and offices of state government, and for the payment of various claims for refunds, for persons, firms, and corporations, and for other purposes, and to transfer money among certain funds, from the funds designated for the fiscal period ending June 30, 2006.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, chargeable to the fund and for the agency and purpose designated, for the period ending June 30, 2006, as follows:

SECTION 14.005.— To the Department of Elementary and Secondary Education

For grants to rural and low-income schools

From Federal Funds. \$1,500,000

SECTION 14.010.— To the Department of Elementary and Secondary Education

For language acquisition pursuant to Title III of the No Child Left Behind Act
 From Federal Funds. \$4,000,000

SECTION 14.015.— To the Department of Elementary and Secondary Education
 For the First Steps Program
 From Federal Funds. \$2,000,000
 From Part C Early Intervention Fund.. . . . 1,100,000
 Total. \$3,100,000

SECTION 14.017.— To the Department of Higher Education
 For annual membership in the Midwestern Higher Education Commission
 Expense and Equipment
 From General Revenue Fund. \$7,500

SECTION 14.018.— To the Department of Higher Education
 Funds are to be transferred out of the State Treasury, chargeable to the General
 Revenue Fund, to the Academic Scholarship Fund
 From General Revenue Fund \$200,000

SECTION 14.020.— To the Department of Revenue
 For the Division of Administration
 For postage
 Expense and Equipment
 From Motor Vehicle Commission Fund. \$1,046
 From Department of Revenue Information Fund. 4,663
 Total. \$5,709

SECTION 14.035.— To the Department of Transportation
 For the purpose of refunding any fee credited to the Department of Transportation
 Bridge and Highway Sign Fund
 From Department of Transportation Bridge and Highway Sign Fund. \$1E

SECTION 14.040.— Funds are to be transferred out of the state treasury, chargeable
 to the Department of Transportation Bridge and Highway Sign Fund, to the State
 Highways and Transportation Department Fund
 From Department of Transportation Bridge and Highway Sign Fund. \$1E

SECTION 14.060.— To the Office of Administration
 For the Division of Accounting
 For paying an amount in aid to the counties that is the net amount of costs in
 criminal cases, transportation of convicted criminals to the state penitentiaries,
 housing, and costs for reimbursement of the expenses associated with
 extradition, less the amount of unpaid city or county liability to furnish public
 defender office space and utility services pursuant to Section 600.040, RSMo
 From General Revenue Fund. \$2,000,000

SECTION 14.065.— To the Department of Agriculture
 For the purchase of motor fuel department-wide
 Expense and Equipment
 From General Revenue Fund. \$29,415
 From Federal and Other Funds. 63,686

Total. \$93,101

SECTION 14.070.— To the Department of Economic Development

For Marketing Operations

Expense and Equipment

From Economic Development Advancement Fund. \$300,000

SECTION 14.075.— To the Department of Economic Development

For the Division of Business Development and Trade

For the Missouri Technology Corporation and the Research Alliance of Missouri

From Missouri Technology Investment Fund. \$10,000

SECTION 14.080.— Funds are to be transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Missouri Technology Investment Fund for the Missouri Technology Corporation and the Research Alliance of Missouri

From General Revenue Fund. \$10,000

SECTION 14.085.— To the Department of Economic Development

For Missouri supplemental tax increment financing as provided in Section 99.845,

RSMo. This appropriation may be used for the following projects: Brush Creek,

Kansas City Midtown, Excelsior Springs Elms Hotel, Independence Santa Fe

Trail Neighborhood, St. Louis City Convention Hotel, Cupples Station, Springfield

Jordan Valley Park, Kansas City Bannister Mall/Three Trails, St. Louis Lambert

Airport Eastern Perimeter, Old Post Office in Kansas City, 1200 Main Garage

Project in Kansas City, Riverside Levee, Branson Landing, and Eastern Jackson

County Bass Pro

From Missouri Supplemental Tax Increment Financing Fund. \$687,743

SECTION 14.090.— Funds are to be transferred out of the State Treasury, chargeable

to the General Revenue Fund, to the Missouri Supplemental Tax Increment

Financing Fund

From General Revenue Fund. \$605,415

SECTION 14.095.— To the Department of Economic Development

For the Division of Community Development

For the Delta Regional Authority, provided that funds may be expended only if

federal funds are appropriated to the Authority pursuant to the Consolidated

Farm and Rural Development Act (7 U.S.C. 1921 et. seq.)

Expense and Equipment

From General Revenue Fund. \$80,000

SECTION 14.100.— To the Department of Economic Development

For the Division of Tourism

Expense and Equipment

From Division of Tourism Supplemental Revenue Fund. \$1,000,000

SECTION 14.105.— Funds are to be transferred out of the State Treasury, chargeable to

the General Revenue Fund, to the Division of Tourism Supplemental Revenue Fund

From General Revenue Fund. \$1,000,000

SECTION 14.110.— To the Department of Insurance

For restitution payment

From Department of Insurance Dedicated Fund. \$50,000

SECTION 14.115.— To the Department of Public Safety

For the Office of the Director

Personal Service

From Federal Funds. \$80,000

Personal Service

From Services to Victims Fund.. . . . 10,000

Personal Service

From Crime Victims' Compensation Fund. 10,000

Total. \$100,000

SECTION 14.120.— To the Department of Public Safety

For the State Highway Patrol

For gasoline expenses for State Highway Patrol vehicles, including aircraft and

Gaming Commission vehicles

Expense and Equipment

From General Revenue Fund. \$14,308

From Federal Funds 12,037

From Gaming Commission Fund. 78,125

From State Highways and Transportation Department Fund. 300,726

Total. \$405,196

SECTION 14.125.— To the Department of Public Safety

For the State Highway Patrol

For Vehicle and Driver Safety

For costs associated with enforcing state motor vehicle laws and traffic regulations

Expense and Equipment

From General Revenue Fund. \$5,003,876

SECTION 14.130.— To the Department of Public Safety

For the State Water Patrol

For the purchase of motor fuel

Expense and Equipment

From General Revenue Fund. \$55,000

From Federal Funds. 20,000

Total. \$75,000

SECTION 14.132.— To the Department of Public Safety

For the Missouri Veterans' Commission

For Missouri Veterans' Homes

For the purpose of paying overtime to nonexempt state employees as required by

Section 105.935, RSMo, and/or for otherwise authorized Personal Service

expenditures in lieu of such overtime payments

From General Revenue Fund \$161,000

From Missouri Veterans' Homes Fund. 539,000

Total \$700,000

SECTION 14.135.— To the Adjutant General

For the Missouri Military Family Relief Program

Expense and Equipment.....	\$5,250
For grants to family members of the National Guard and reservists who are in financial need.	<u>94,750E</u>
From Missouri Military Family Relief Fund.	\$100,000
SECTION 14.145. — To the Department of Corrections For the Division of Human Services For the purchase of fuel and utilities department-wide Expense and Equipment From General Revenue Fund.....	\$6,357,243
SECTION 14.147. — To the Department of Corrections For the Division of Human Services For the purpose of paying overtime to nonexempt state employees as required by Section 105.935, RSMo, and/or for otherwise authorized Personal Service expenditures in lieu of such overtime payments From General Revenue Fund	\$3,255,900
SECTION 14.150. — To the Board of Public Buildings For the Department of Corrections For the payment of rent by the Department of Corrections to the Board for the Farmington Correctional Center and Fulton Reception and Diagnostic Center. Funds to be used by the Board for fuel and utilities Expense and Equipment From General Revenue Fund.....	\$1,195,943
SECTION 14.155. — To the Department of Mental Health For the purchase of motor fuel department-wide Expense and Equipment From General Revenue Fund.....	\$117,747
SECTION 14.160. — To the Department of Mental Health For Medicaid Adult Treatment Services department-wide From General Revenue Fund.....	\$7,087,712
From Federal Funds	7,372,343
For the Division of Mental Retardation and Developmental Disabilities For services for children who are clients of the Department of Social Services From Mental Health Interagency Payments Fund.	<u>500,000</u>
Total.	\$14,960,055
SECTION 14.165. — To the Department of Mental Health For the purchase of fuel and utilities department-wide Expense and Equipment From General Revenue Fund.....	\$1,647,558
SECTION 14.170. — To the Department of Mental Health For the Division of Mental Retardation and Developmental Disabilities For the purpose of funding the transition of clients from Bellefontaine Habilitation Center Personal Service and/or Expense and Equipment and/or the Purchase of Community Placement	

From General Revenue Fund.	\$5,674,665
From Federal Funds.	<u>1,165,837</u>
Total	\$6,840,502

SECTION 14.172.— To the Department of Mental Health

For the purpose of paying overtime to nonexempt state employees as required by
 Section 105.935, RSMo, and/or for otherwise authorized Personal Service
 expenditures in lieu of such overtime payments

From General Revenue Fund	\$3,326,298
From Federal Funds.	<u>84,563</u>
Total	\$3,410,861

SECTION 14.175.— To the Department of Health and Senior Services

For the Division of Community and Public Health

For the purpose of funding alternatives to abortion services for women at or
 below 200 percent of the Federal Poverty Level, provided that none of these
 funds shall be expended to perform or induce, assist in the performing or
 inducing of, or refer for abortions; and none of these funds shall be granted
 to organizations or affiliates of organizations that perform or induce, assist in
 the performing or inducing of, or refer for abortions

From General Revenue Fund.	\$162,224
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SECTION 14.180.— To the Department of Health and Senior Services

For the Division of Senior and Disability Services

For the purpose of funding Medicaid Home and Community Based programs

From General Revenue Fund.	\$930,555
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SECTION 14.182.— To the Department of Social Services

For the purpose of paying overtime to nonexempt state employees as required by
 Section 105.935, RSMo, and/or for otherwise authorized Personal Service
 expenditures in lieu of such overtime payments

From General Revenue Fund	\$360,439
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SECTION 14.185.— To the Department of Social Services

For the Division of General Services

For the purchase of fuel and utilities

Expense and Equipment

From General Revenue Fund.	\$14,206
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SECTION 14.190.— To the Department of Social Services

For the Family Support Division

For the purpose of funding nursing care payments to aged, blind, or disabled
 persons, and for personal funds to recipients of Supplemental Nursing Care
 payments as required by Section 208.030, RSMo

From General Revenue Fund.	\$342,766
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SECTION 14.195.— To the Department of Social Services

For the Children's Division

For the purpose of funding adoption and guardianship subsidy payments and
 related services

From General Revenue Fund.	\$3,591,498
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SECTION 14.200.— To the Department of Social Services

For the Division of Youth Services

For the purchase of fuel, utilities, and motor fuel

Expense and Equipment

From General Revenue Fund. \$238,752

SECTION 14.205.— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding administrative services. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend-down amount

Expense and Equipment

From General Revenue Fund. \$125,000

From Federal Funds. 325,000Total. \$450,000**SECTION 14.210.**— To the Department of Social Services

For the Division of Medical Services

For the purpose of funding pharmaceutical payments under the Medicaid fee-for-service and managed care programs and for the purpose of funding professional fees for pharmacists and for the development of a Comprehensive Chronic Care Risk Management program and for the Missouri Rx Plan authorized by Sections 208.780 through 208.798 of SB 539 (93rd General Assembly, First Regular Session) and for Medicare Part D Clawback payments and for administration of these programs. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend-down amount

From General Revenue Fund. \$6,343,989

From Federal Funds. 10,237,269Total. \$16,581,258**SECTION 14.215.**— To the Department of Social Services

For the Division of Medical Services

For the purpose of supplementing appropriations for any medical service under the Medicaid fee-for-service, managed care, or State Medical programs, including related services. The single agency administering the Medicaid program is only authorized to reimburse for benefits that exceed a recipient's spend-down amount

From General Revenue Fund. \$3,151,147

From Federal Funds 59,627,320

From Premium Fund. 3,800,000

From Uncompensated Care Fund 13,188,559

From Pharmacy Rebates Fund. 27,525,193Total. \$107,292,219**SECTION 14.220.**— To the State Treasurer

For the Linked Deposit Program

Expense and Equipment

From State Treasurer's General Operations Fund. \$45,236

For Unclaimed Property Division administrative costs including expense and equipment for auctions, advertising, and promotions

Expense and Equipment

From Abandoned Fund Account.	1E
Total.	\$45,237

SECTION 14.225.— To the Attorney General

Personal Service and/or Expense and Equipment

From General Revenue Fund.	\$207,320
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SECTION 14.230.— To the Supreme Court

For the purpose of funding the Circuit Courts

Personal Service

From General Revenue Fund.	\$62,130
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SECTION 14.235.— To the Supreme Court

For the purpose of making payments due from litigants in court proceedings

under set-off against debts authority as provided in Section 488.020(3), RSMo

From Circuit Courts Escrow Fund.	\$500,000
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SECTION 14.240.— To the Supreme Court

For the purpose of funding drug courts

Expense and Equipment

From Drug Court Resources Fund.	\$193,231
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SECTION 14.245.— To the Commission on Retirement, Removal and Discipline of Judges

For the purpose of funding the expenses of the Commission

Personal Service

From General Revenue Fund.	\$10,000
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BILL TOTALS

General Revenue Fund.	\$53,369,606
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Federal Funds.	86,437,911
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Other Funds.	47,602,693
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Total.	\$187,410,210
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Approved March 14, 2006

HB 1015 [HB 1015]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: SUPPLEMENTAL PURPOSES FOR THE DEPARTMENT OF SOCIAL SERVICES.

AN ACT to appropriate money for supplemental purposes for the Department of Social Services, and to transfer money among certain funds, from the funds designated for the fiscal period ending June 30, 2006.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the State Treasury, chargeable to the fund and for the agency and purpose designated, for the period ending June 30, 2006, as follows:

SECTION 15.005.— There is transferred out of the State Treasury, chargeable to the General Revenue Fund, to the Utilicare Stabilization Fund for the purpose of funding the Low Income Home Energy Assistance Program
From General Revenue Fund. \$6,079,746

SECTION 15.010.— To the Department of Social Services
For the Low Income Home Energy Assistance Program
From Utilicare Stabilization Fund.. . . . \$6,079,746E

Approved January 19, 2006

HB 1021 [HCS HB 1021]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

APPROPRIATIONS: CAPITAL IMPROVEMENTS.

AN ACT to appropriate money to the Office of Administration, Department of Transportation, and Department of Natural Resources, for planning, design, redevelopment, renovation, capital improvements, building purchases including parking and moving expenses, new construction, and other related expenses, to be expended only for the following projects and sites: playgrounds at Mississippi Valley State School and Parkview State School, vocational technical schools in Mexico, St. Charles, Maryville, St. Joseph and Cape Girardeau, infrastructure development at Missouri ports, public health lab in Jefferson City, Missouri State Penitentiary in Jefferson City, building or buildings in St. Louis that are needed to replace office space of existing workers, law enforcement center at Lake Ozark State Park, cemetery at Fort Leonard Wood, new Troop C Headquarters, fuel remediation areas at Fulton State Hospital, Missouri Sexual Offender Treatment Center in Farmington, a new prison at Chillicothe, and appraisals and surveys at state facilities, from the funds designated for the fiscal period beginning July 1, 2006 and ending June 30, 2007.

Be it enacted by the General Assembly of the state of Missouri, as follows:

There is appropriated out of the state treasury, for the agency, program, and purpose stated, chargeable to the fund designated for the period beginning July 1, 2006 and ending June 30, 2007, as follows:

SECTION 21.005.— To the Office of Administration
For the Department of Elementary and Secondary Education
For the design, construction, and improvements for the playground at the Mississippi Valley State School for the Severely Handicapped in Hannibal
From Handicapped Children's Trust Fund. \$45,000

SECTION 21.007.— To the Office of Administration
For the Department of Elementary and Secondary Education
For design, construction and improvements for the playground at the Parkview

State School for the Severely Handicapped
 From Bingo Proceeds for Education Fund. \$100,000

SECTION 21.008.— To the Office of Administration
 For the Department of Elementary and Secondary Education
 For the design, renovation, construction, and improvements of vocational technical
 schools. Local matching funds must be provided on a 50/50 state/local match
 rate in order to be eligible for state funds
 For vocational education facilities in Mexico. \$875,000
 For vocational education facilities in St. Charles 1,000,000
 For vocational education facilities in Maryville 250,000
 For vocational education facilities in St. Joseph. 250,000
 For vocational education facilities in Cape Girardeau. 750,000
 From General Revenue Fund. \$3,125,000

SECTION 21.010.— To the Department of Transportation
 For Port Authority Capital Improvements
 For infrastructure development of Missouri ports
 From General Revenue Fund. \$1,500,000

SECTION 21.015.— To the Office of Administration
 For the Board of Public Buildings
 For the construction of a new State Public Health Laboratory
 From Board of Public Buildings Bond Proceeds Fund. \$2,470,891

SECTION 21.020.— To the Office of Administration
 For the Division of Facilities Management, Design and Construction
 For appraisals and surveys of state facilities
 From General Revenue Fund. \$250,000

SECTION 21.025.— To the Office of Administration
 For the Division of Facilities Management, Design and Construction
 For redevelopment of the Missouri State Penitentiary site
 From General Revenue Fund. \$500,000

SECTION 21.026.— To the Office of Administration
 For the Division of Facilities Management, Design and Construction
 For the purchase of a building or buildings in St. Louis including modifications,
 moving expenses and a parking lot
 From General Revenue Fund. \$3,750,000
 From the federal Reed Bill monies subaccount, made available to this state under
 Section 903 of the Social Security Act, as amended, through the
 Unemployment Compensation Administration Fund 638,200
 From Unemployment Compensation Administration Fund 625,800
 From Special Employment Security Fund. 736,000
 Total. \$5,750,000

SECTION 21.030.— To the Department of Natural Resources
 For the Division of State Parks
 For development of a law enforcement center at the Lake Ozark State Park
 From State Parks Earnings Fund. \$350,000

SECTION 21.035.— To the Office of Administration

For the Department of Public Safety

For construction of a new veterans cemetery in Fort Leonard Wood

From Federal Funds. \$8,000,000E

From Veterans Commission Capital Improvements Trust Fund. 550,000

Total. \$8,550,000

SECTION 21.036.— To the Office of Administration

For the Department of Public Safety

For construction of a new Troop C Headquarters by design-build

From State Highways and Transportation Department Fund. \$6,099,584

SECTION 21.040.— To the Office of Administration

For the Department of Mental Health

For fuel spill remediation at Fulton State Hospital

From General Revenue Fund. \$503,519

SECTION 21.045.— To the Office of Administration

For the Department of Mental Health

For planning, design, and construction of wards at the Missouri Sexual Offender
Treatment Center

From General Revenue Fund. \$1,967,203

SECTION 21.055.— To the Office of Administration

For the Board of Public Buildings

For the construction of a new women's prison in Chillicothe by design-build

From Proceeds of Revenue Bonds. \$120,000,000

BILL TOTALS

General Revenue Fund. \$11,595,722

Federal Funds. 9,264,000

Other Funds. 10,351,475

Proceeds of Revenue Bonds. 120,000,000

Total. \$151,211,197

Approved June 29, 2006

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HB 977 [SCS HCS HB 977]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes the at-large election of board of aldermen members in certain cities of the fourth class

AN ACT to repeal section 79.060, RSMo, and to enact in lieu thereof one new section relating to the board of aldermen in fourth class cities.

SECTION

A. Enacting clause.

79.060. City to be divided into wards — aldermen elected — aldermen at-large permitted for certain cities.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 79.060, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 79.060, to read as follows:

79.060. CITY TO BE DIVIDED INTO WARDS — ALDERMEN ELECTED — ALDERMEN AT-LARGE PERMITTED FOR CERTAIN CITIES. — **1.** The board of aldermen shall, by ordinance, divide the city into not less than two wards, and two aldermen shall be elected from each ward by the qualified voters thereof, at the first election for aldermen in cities adopting the provisions of this chapter. At such election for aldermen, the person receiving the highest number of votes in each ward shall hold his office for two years, and the person receiving the next highest number of votes shall hold his office for one year; but thereafter each ward shall elect annually one alderman, who shall hold his office for two years.

2. Notwithstanding the provisions of subsection 1 of this section, cities with a population of one thousand or less in the most recent census may, by ordinance, choose to elect aldermen at-large instead of by the method outlined in subsection 1 of this section. Under this option, the seats of aldermen shall be filled at-large as soon as the current terms expire. Each year thereafter, one-half of the board of aldermen shall stand for election at-large for a two-year term.

Approved June 9, 2006

HB 978 [SCS HCS HB 978]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Establishes the Vietnam War Medallion Program

AN ACT to amend chapter 42, RSMo, by adding thereto four new sections relating to the Vietnam War medallion program.

SECTION

A. Enacting clause.

42.220. Vietnam War medallion program created — eligibility — veteran defined.

- 42.222. Adjutant general to administer program — rulemaking authority — eligibility determination — who may apply — disallowance, statement required.
42.224. Design of medallion by veterans commission.
42.226. Fund created, use of moneys — termination, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 42, RSMo, is amended by adding thereto four new sections, to be known as sections 42.220, 42.222, 42.224, and 42.226, to read as follows:

42.220. VIETNAM WAR MEDALLION PROGRAM CREATED — ELIGIBILITY — VETERAN DEFINED. — 1. There is hereby created within the state adjutant general's office the "Vietnam War Medallion Program". Every veteran who honorably served on active duty in the United States military service at any time beginning February 28, 1961, and ending May 7, 1975, shall be entitled to receive a Vietnam War medallion, medal, and a certificate of appreciation under sections 42.220 to 42.226, provided that:

(1) Such veteran is a legal resident of this state or was a legal resident of this state at the time he or she entered or was discharged from military service or at the time of his or her death; and

(2) Such veteran was honorably separated or discharged from military service or is still in active service in an honorable status, or was in active service in an honorable status at the time of his or her death.

2. The Vietnam War medallion, medal, and a certificate shall be awarded regardless of whether or not such veteran served within the United States or in a foreign country. The medallion, medal, and the certificate shall be awarded regardless of whether or not such veteran was under eighteen years of age at the time of enlistment. For purposes of sections 42.220 to 42.226, "veteran" means any person defined as a veteran by the United States Department of Veterans' Affairs or its successor agency.

42.222. ADJUTANT GENERAL TO ADMINISTER PROGRAM — RULEMAKING AUTHORITY — ELIGIBILITY DETERMINATION — WHO MAY APPLY — DISALLOWANCE, STATEMENT REQUIRED. — 1. Except as otherwise provided in sections 42.220 to 42.226, the adjutant general of the state of Missouri shall administer the provisions of sections 42.220 to 42.226, and may adopt all rules and regulations necessary to administer the provisions of sections 42.220 to 42.226. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 42.220 to 42.226 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. Sections 42.220 to 42.226 and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

2. The adjutant general shall determine as expeditiously as possible the persons who are entitled to a Vietnam War medallion, medal, and a certificate under sections 42.220 to 42.226 and distribute the medallions, medals, and the certificates as provided in sections 42.220 to 42.226. Applications for the Vietnam War medallion, medal, and the certificate shall be filed with the office of the adjutant general at any time after January 1, 2007, on forms prescribed and furnished by the adjutant general's office. The adjutant general shall approve all applications that are in order, and shall cause a Vietnam War medallion, medal, and a certificate to be prepared for each approved veteran in the form created by the veterans' commission under section 42.224. The medallions, medals, and certificates shall be awarded until the supply of medallions, medals, and certificates is exhausted. The

adjutant general shall notify the general assembly when such supply totals less than one hundred.

3. The following persons may apply for a Vietnam War medallion, medal, and a certificate under sections 42.220 to 42.226:

(1) Any veteran who is entitled to a Vietnam War medallion, medal, and a certificate under sections 42.220 to 42.226;

(2) Any spouse or eldest living survivor of a deceased veteran who would be entitled to a Vietnam War medallion, medal, and a certificate under sections 42.220 to 42.226 but who died prior to having made application for such medallion, medal, and certificate.

4. If any spouse or eldest living survivor applies for the Vietnam War medallion, medal, and certificate under subsection 3 of this section or if any veteran dies after applying for a Vietnam War medallion, medal, and a certificate under sections 42.220 to 42.226 and such veteran would have been entitled to the Vietnam War medallion, medal, and the certificate, the adjutant general shall give the Vietnam War medallion, medal, and the certificate to the spouse or eldest living survivor of the deceased veteran.

5. If the adjutant general disallows any veteran's claim to a Vietnam War medallion, medal, and a certificate under sections 42.220 to 42.226, a statement of the reason for the disallowance shall be filed with the application and notice of this disallowance shall be mailed to the applicant at the applicant's last known address.

42.224. DESIGN OF MEDALLION BY VETERANS COMMISSION. — The veterans' commission shall design the form of the Vietnam War medallion, medal, and the certificate and forward the approved designs to the adjutant general for distribution under sections 42.220 to 42.226. It is the intent of the general assembly to create statewide involvement in the design of these symbols in recognition of this historic endeavor. Therefore, in designing the forms, the veterans' commission may solicit potential designs from elementary and secondary schools, veterans' groups, civic organizations, or any other interested party, and may select the best design from among such solicited designs, or may select another design.

42.226. FUND CREATED, USE OF MONEYS — TERMINATION, WHEN. — 1. The "Vietnam War Veterans' Recognition Award Fund" is hereby created in the state treasury, and shall consist of all gifts, donations, and bequests to the fund and all funds transferred to the veterans' commission capital improvement trust fund from any remaining balances in the World War II veterans' recognition award fund and the Korean Conflict veterans' recognition award fund. The fund shall be administered by the adjutant general. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the Vietnam veterans' recognition award fund shall not be transferred to the credit of the general revenue fund at the end of the biennium. Interest and moneys earned on the fund shall be credited to the fund.

2. Moneys in the fund shall be used solely to promote the solicitation for designs for, aid in the manufacture of, and aid in the distribution of the medallion, medal, and the certificate.

3. When all allowed Vietnam War medallions, medals, and certificates have been distributed, the fund shall automatically be terminated. Any balance remaining in the fund after all such distributions shall be transferred to the veterans' commission capital improvement trust fund created in section 313.835, RSMo.

Approved June 13, 2006

HB 983 [HB 983]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Requires the United States and the Missouri state flags to be flown at half-staff on all government buildings on September 11 of each year

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to display of flags on September eleventh.

SECTION

A. Enacting clause.

9.134. United States flag and state flag to be flown at half-staff on September eleventh.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 9, RSMo, is amended by adding thereto one new section, to be known as section 9.134, to read as follows:

9.134. UNITED STATES FLAG AND STATE FLAG TO BE FLOWN AT HALF-STAFF ON SEPTEMBER ELEVENTH. — **The United States flag and the Missouri state flag shall be flown at half-staff on all government buildings on each September eleventh in honor of the individuals who died as a result of the terrorist attacks against the United States on September 11, 2001.**

Approved June 13, 2006

HB 984 [HB 984]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Encourages all government buildings, businesses, and citizens to display the POW/MIA flag on Memorial Day, July 4, September 11, and Veterans Day

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to the display of the POW/MIA flag.

SECTION

A. Enacting clause.

9.136. POW/MIA flag, display of encouraged on certain dates.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 9, RSMo, is amended by adding thereto one new section, to be known as section 9.136, to read as follows:

9.136. POW/MIA FLAG, DISPLAY OF ENCOURAGED ON CERTAIN DATES. — **All government buildings, businesses, and citizens of the state of Missouri are encouraged to display the POW/MIA flag, which is designed to commemorate the service and sacrifice of the members of the armed forces of the United States who were prisoners of war or**

missing in action, on Memorial Day, the Fourth of July, September eleventh, and Veterans Day.

Approved June 13, 2006

HB 1026 [SS SCS HCS HB 1026]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Prohibits protest activities before or after funeral services

AN ACT to repeal section 578.501, RSMo, and to enact in lieu thereof two new sections relating to protest activities near funeral services, with penalty provisions, an emergency clause, and a contingent effective date.

SECTION

- A. Enacting clause.
- 578.501. Funeral protests prohibited, when — citation of law — definitions.
- 578.502. Funeral protests prohibited, when — funeral defined.
- B. Emergency clause.
- C. Contingency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 578.501, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 578.501 and 578.502, to read as follows:

578.501. FUNERAL PROTESTS PROHIBITED, WHEN — CITATION OF LAW — DEFINITIONS. — 1. This section shall be known as "Spc. Edward Lee Myers' Law".

2. It shall be unlawful for any person to engage in picketing or other protest activities in front of or about any [church, cemetery, or funeral establishment, as defined by section 333.011, RSMo.] **location at which a funeral is held**, within one hour prior to the commencement of any funeral, and until one hour following the cessation of any funeral. Each day on which a violation occurs shall constitute a separate offense. Violation of this section is a class B misdemeanor, unless committed by a person who has previously pled guilty to or been found guilty of a violation of this section, in which case the violation is a class A misdemeanor.

3. For the purposes of this section, "funeral" means the ceremonies, processions and memorial services held in connection with the burial or cremation of the dead.

578.502. FUNERAL PROTESTS PROHIBITED, WHEN — FUNERAL DEFINED. — 1. This section shall be known as "Spc. Edward Lee Myers Law".

2. It shall be unlawful for any person to engage in picketing or other protest activities within three hundred feet of or about any **location at which a funeral is held**, within one hour prior to the commencement of any funeral, and until one hour following the cessation of any funeral. Each day on which a violation occurs shall constitute a separate offense. Violation of this section is a class B misdemeanor, unless committed by a person who has previously pled guilty to or been found guilty of a violation of this section, in which case the violation is a class A misdemeanor.

3. For purposes of this section, "funeral" means the ceremonies, processions, and memorial services held in connection with the burial or cremation of the dead.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to protect the emotional well-being of persons paying respects to the deceased, section 578.501 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section 578.501 of this act shall be in full force and effect upon its passage and approval.

SECTION C. CONTINGENCY CLAUSE. — The enactment of section 578.502 shall become effective only on the date the provisions of section 578.501 are finally declared void or unconstitutional by a court of competent jurisdiction and upon notification by the attorney general to the revisor of statutes.

Approved July 6, 2006

HB 1053 [HCS HB 1053]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Allows victims of certain offenses against the family access to official court records in certain circumstances

AN ACT to repeal section 610.105, RSMo, and to enact in lieu thereof one new section relating to victim's access to official case records in certain cases in which imposition of sentence is suspended.

SECTION

A. Enacting clause.

610.105. Effect of nolle pros — dismissal — sentence suspended on record — not guilty due to mental disease or defect, effect — official records available to victim in certain cases.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 610.105, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 610.105, to read as follows:

610.105. EFFECT OF NOLLE PROS — DISMISSAL — SENTENCE SUSPENDED ON RECORD — NOT GUILTY DUE TO MENTAL DISEASE OR DEFECT, EFFECT — OFFICIAL RECORDS AVAILABLE TO VICTIM IN CERTAIN CASES. — **1.** If the person arrested is charged but the case is subsequently nolle prossed, dismissed, or the accused is found not guilty or imposition of sentence is suspended in the court in which the action is prosecuted, official records pertaining to the case shall thereafter be closed records when such case is finally terminated except as provided in **subsection 2 of this section** and section 610.120 and except that the court's judgment or order or the final action taken by the prosecutor in such matters may be accessed. If the accused is found not guilty due to mental disease or defect pursuant to section 552.030, RSMo, official records pertaining to the case shall thereafter be closed records upon such findings, except that the disposition may be accessed only by law enforcement agencies, child-care agencies, facilities as defined in section 198.006, RSMo, and in-home services provider agencies as defined in section 660.250, RSMo, in the manner established by section 610.120.

2. If the person arrested is charged with an offense found in chapter 566, RSMo, section 568.045, 568.050, 568.060, 568.065, 568.080, 568.090, or 568.175, RSMo, and an imposition of sentence is suspended in the court in which the action is prosecuted, the

official records pertaining to the case shall be made available to the victim for the purpose of using the records in his or her own judicial proceeding, or if the victim is a minor to the victim's parents or guardian, upon request.

Approved June 29, 2006

HB 1138 [HCS HB 1138]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Allows members of the Police Retirement System of Kansas City to receive service credit for time spent in military service during a war

AN ACT to repeal sections 86.1110, 86.1140, 86.1490, and 86.1500, RSMo, and to enact in lieu thereof four new sections relating to police military leave.

SECTION

- A. Enacting clause.
- 86.1110. Military leave of absence, effect of — service credit for military service, when.
- 86.1140. Leave of absence not to act as termination of membership — creditable service permitted, when.
- 86.1490. Creditable service, inclusions and exclusions.
- 86.1500. Military service, effect on creditable service — election to purchase creditable service, when — service credit for military service, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 86.1110, 86.1140, 86.1490, and 86.1500, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 86.1110, 86.1140, 86.1490, and 86.1500, to read as follows:

86.1110. MILITARY LEAVE OF ABSENCE, EFFECT OF — SERVICE CREDIT FOR MILITARY SERVICE, WHEN. — 1. Whenever a member is given a leave of absence for military service and returns to employment after discharge from the service, such member shall be entitled to creditable service for the years of employment prior to the leave of absence.

2. [Any] **Except as provided in subsection 3 of this section,** a member who served on active duty in the armed forces of the United States and who became a member, or returned to membership, after discharge under honorable conditions, may elect prior to retirement to purchase creditable service equivalent to such service in the armed forces, not to exceed two years, provided the member is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan for the service to be purchased, other than a United States military service retirement system or United States Social Security benefits attributable to such military service, and an affidavit so stating is filed by the member with the retirement system. A member electing to make such purchase shall pay to the retirement system an amount equal to the actuarial value of the additional benefits attributable to the additional service credit to be purchased, as of the date the member elects to make such purchase. The retirement system shall determine such value using accepted actuarial methods and the same assumptions with respect to interest rates, mortality, future salary increases, and all related factors used in performing the most recent regular actuarial valuation of the retirement system. Payment in full of the amount due from a member electing to purchase creditable service under this subsection shall be made over a period not to exceed five years, measured from the date of election, or prior to the commencement date for payment of benefits to the member from the

retirement system, whichever is earlier, including interest on unpaid balances compounded annually at the interest rate assumed from time to time for actuarial valuations of the retirement system. If payment in full including interest is not made within the prescribed period, any partial payments made by the member shall be refunded, and no creditable service attributable to such election, or as a result of any such partial payments, shall be allowed; provided that if a benefit commencement date occurs because of the death or disability of a member who has made an election under this subsection and if the member is current in payments under an approved installment plan at the time of the death or disability, such election shall be valid if the member, the surviving spouse, or other person entitled to benefit payments pays the entire balance of the remaining amount due, including interest to the date of such payment, within sixty days after the member's death or disability. The time of a disability shall be deemed to be the time when such member is retired by the board of police commissioners for reason of disability as provided in sections 86.900 to 86.1280.

3. Notwithstanding any other provision of sections 86.900 to 86.1280, a member who is on leave of absence for military service during any portion of which leave the United States is in a state of declared war, or a compulsory draft is in effect for any of the military branches of the United States, or any units of the military reserves of the United States, including the National Guard, are mobilized for combat military operations, and who becomes entitled to reemployment rights and other employment benefits under Title 38, Chapter 43 of the U.S. Code relating to employment and reemployment rights of members of the uniformed services by meeting the requirements for such rights and benefits under section 4312 of said chapter, or the corresponding provisions of any subsequent applicable U.S. statute, shall be entitled to service credit for the time spent in such military service for all purposes of sections 86.900 to 86.1280 and such member shall not be required to pay any member contributions for such time. If it becomes necessary for the years of service to be included in the calculation of such member's compensation for any purpose, such member shall be deemed to have received the same compensation throughout such period of service as the member's base annual salary immediately prior to the commencement of such leave of absence.

86.1140. LEAVE OF ABSENCE NOT TO ACT AS TERMINATION OF MEMBERSHIP — CREDITABLE SERVICE PERMITTED, WHEN. — 1. Should any member be granted leave of absence by the board of police commissioners, such member shall not, because of such absence, cease to be a member.

2. If a member is on leave of absence by authority of the board of police commissioners for thirty consecutive days or less, such member shall receive creditable service for such time.

3. **Except as provided in subsection 3 of section 86.1110,** if a member is on leave of absence for more than thirty consecutive days without compensation, such member shall not receive service credits for such time unless such member shall, within one year after returning from such absence, pay into the retirement system an amount equal to the member's contribution percentage at the time such absence began times an assumed salary figure for the period of such absence, computed by assuming that such member received a salary during such absence at the rate of the base annual salary the member was receiving immediately prior to such absence.

86.1490. CREDITABLE SERVICE, INCLUSIONS AND EXCLUSIONS. — 1. **Except as provided in subsection 3 of section 86.1500,** creditable service at retirement on which the retirement allowance of a member is based consists of the membership service rendered by such member for which such member received compensation since such member last became a member.

2. Creditable service also includes any prior service credit to which a member may be entitled by virtue of an authorized purchase of such credit or as otherwise provided in sections 86.1310 to 86.1640.

3. Creditable service shall not include any time a member was suspended from service without compensation. No contribution is required from either the member under section 86.1400 or from the city under section 86.1390 for such time.

86.1500. MILITARY SERVICE, EFFECT ON CREDITABLE SERVICE — ELECTION TO PURCHASE CREDITABLE SERVICE, WHEN — SERVICE CREDIT FOR MILITARY SERVICE, WHEN.

— 1. Whenever a member is given a leave of absence for military service and returns to employment after discharge from the service, such member shall be entitled to creditable service for the years of employment prior to the leave of absence.

2. [Any] **Except as provided in subsection 3 of this section**, a member who served on active duty in the armed forces of the United States and who became a member, or returned to membership, after discharge under honorable conditions, may elect prior to retirement to purchase creditable service equivalent to such service in the armed forces, not to exceed two years, provided the member is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan for the service to be purchased, other than a United States military service retirement system or United States Social Security benefits attributable to such military service, and an affidavit so stating is filed by the member with the retirement system. A member electing to make such purchase shall pay to the retirement system an amount equal to the actuarial value of the additional benefits attributable to the additional service credit to be purchased, as of the date the member elects to make such purchase. The retirement system shall determine such value using accepted actuarial methods and the same assumptions with respect to interest rates, mortality, future salary increases, and all related factors used in performing the most recent regular actuarial valuation of the retirement system. Payment in full of the amount due from a member electing to purchase creditable service under this subsection shall be made over a period not to exceed five years, measured from the date of election, or prior to the commencement date for payment of benefits to the member from the retirement system, whichever is earlier, including interest on unpaid balances compounded annually at the interest rate assumed from time to time for actuarial valuations of the retirement system. If payment in full including interest is not made within the prescribed period, any partial payments made by the member shall be refunded, and no creditable service attributable to such election, or as a result of any such partial payments, shall be allowed; provided that if a benefit commencement date occurs because of the death or disability of a member who has made an election under this subsection and if the member is current in payments under an approved installment plan at the time of the death or disability, such election shall be valid if the member, the surviving spouse or other person entitled to benefit payments pays the entire balance of the remaining amount due, including interest to the date of such payment, within sixty days after the member's death or disability. The time of a disability shall be deemed to be the time when such member is determined by the retirement board to be totally and permanently disabled as provided in section 86.1560.

3. **Notwithstanding any other provision of sections 86.1310 to 86.1640, a member who is on leave of absence for military service during any portion of which leave the United States is in a state of declared war, or a compulsory draft is in effect for any of the military branches of the United States, or any units of the military reserves of the United States, including the National Guard, are mobilized for combat military operations, and who becomes entitled to reemployment rights and other employment benefits under Title 38, Chapter 43 of the U.S. Code relating to employment and reemployment rights of members of the uniformed services by meeting the requirements for such rights and benefits under section 4312 of said chapter, or the corresponding provisions of any subsequent applicable U.S. statute, shall be entitled to service credit for the time spent in such military service for all purposes of sections 86.1310 to 86.1640 and such member shall not be required to pay any member contributions for such time. If it becomes necessary for the years of service to be included in the calculation of such member's compensation**

for any purpose, such member shall be deemed to have received the same compensation throughout such period of service as the member's base annual salary immediately prior to the commencement of such leave of absence.

Approved June 21, 2006

HB 1149 [SCS#2 HCS HB 1149]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding the regulation of water

AN ACT to repeal sections 227.240, 640.100, 644.016, 644.036, 644.051, 644.054, and 701.450 RSMo, and to enact in lieu thereof eleven new sections relating to the regulation of water.

SECTION

- A. Enacting clause.
- 67.1848. Sewer and water lines in public roads, when permitted, limitations and requirements.
- 227.240. Location and removal of public utility equipment — lines in right-of-way permitted — penalty for violation.
- 640.100. Commission, duties, promulgate rules — political subdivisions may set certain additional standards — certain departments test water supply, when — fees, amount — federal compliance — customer fees, effective, expires, when.
- 644.016. Definitions.
- 644.036. Public hearings — rules and regulations, how promulgated — listings under Clean Water Act, requirements, procedures, expiration date.
- 644.051. Prohibited acts — permits required, when, fee — bond required of permit holders, when — permit application procedures — rulemaking — limitation on use of permit fee moneys.
- 644.054. Fees, billing and collection — administration, generally — fees to become effective, when — fees to expire, when — variances granted, when — joint committee for restructuring fees to be appointed, report — joint committee convened to consider fee restructuring report.
- 644.587. Board may borrow additional \$10,000,000 for purposes of water pollution, improvement of drinking water, and storm water control.
- 644.588. Board may borrow additional \$10,000,000 for purposes of rural water and sewer grants and loans.
- 644.589. Board may borrow additional \$20,000,000 for purposes of storm water control.
- 701.450. Equal number of water closets, diaper changing stations, requirements — extension of time for compliance, requirements (St. Louis City).

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 227.240, 640.100, 644.016, 644.036, 644.051, 644.054, and 701.450 RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 67.1848, 227.240, 640.100, 644.016, 644.036, 644.051, 644.054, 644.587, 644.588, 644.589, and 701.450 to read as follows:

67.1848. SEWER AND WATER LINES IN PUBLIC ROADS, WHEN PERMITTED, LIMITATIONS AND REQUIREMENTS. — All public water supply districts, sewer districts, and municipalities, including villages, shall have the right to lay, install, construct, repair, and maintain sewer and water lines in public highways, roads, streets, and alleys, subject to the reasonable rules and regulations of governmental bodies having jurisdiction of such public places. Due regard shall be taken for the rights of the public in its use of thoroughfares and equal rights of other utilities thereto.

227.240. LOCATION AND REMOVAL OF PUBLIC UTILITY EQUIPMENT — LINES IN RIGHT-OF-WAY PERMITTED — PENALTY FOR VIOLATION. — 1. The location and removal of all telephone, cable television, and electric light and power transmission lines, poles, wires, and conduits and all pipelines and tramways, erected or constructed, or hereafter to be erected or constructed by any corporation, **municipality, public water supply district, sewer district,** association or persons, within the right-of-way of any state highway, insofar as the public travel and traffic is concerned, and insofar as the same may interfere with the construction or maintenance of any such highway, shall be under the control and supervision of the state highways and transportation commission.

2. A cable television corporation or company shall be permitted to place its lines within the right-of-way of any state highway, consistent with the rules and regulations of the state highways and transportation commission. The state highways and transportation commission shall establish a system for receiving and resolving complaints with respect to cable television lines placed in, or removed from, the right-of-way of a state highway.

3. The commission or some officer selected by the commission shall serve a written notice upon the **entity**, person or corporation owning or maintaining any such lines, poles, wires, conduits, pipelines, or tramways, which notice shall contain a plan or chart indicating the places on the right-of-way at which such lines, poles, wires, conduits, pipelines or tramways may be maintained. The notice shall also state the time when the work of hard surfacing said roads is proposed to commence, and shall further state that a hearing shall be had upon the proposed plan of location and matters incidental thereto, giving the place and date of such hearing. Immediately after such hearing the said owner shall be given a notice of the findings and orders of the commission and shall be given a reasonable time thereafter to comply therewith; provided, however, that the effect of any change ordered by the commission shall not be to remove all or any part of such lines, poles, wires, conduits, pipelines or tramways from the right-of-way of the highway. The removal of the same shall be made at the cost and expense of the owners thereof unless otherwise provided by said commission, and in the event of the failure of such owners to remove the same at the time so determined they may be removed by the state highways and transportation commission, or under its direction, and the cost thereof collected from such owners, and such owners shall not be liable in any way to any person for the placing and maintaining of such lines, poles, wires, conduits, pipelines and tramways at the places prescribed by the commission.

4. The commission is authorized in the name of the state of Missouri to institute and maintain, through the attorney general, such suits and actions as may be necessary to enforce the provisions of this section. Any corporation, association or the officers or agents of such corporations or associations, or any other person who shall erect or maintain any such lines, poles, wires, conduits, pipelines or tramways, within the right-of-way of such roads which are hard-surfaced, which are not in accordance with such orders of the commission, shall be deemed guilty of a misdemeanor.

640.100. COMMISSION, DUTIES, PROMULGATE RULES — POLITICAL SUBDIVISIONS MAY SET CERTAIN ADDITIONAL STANDARDS — CERTAIN DEPARTMENTS TEST WATER SUPPLY, WHEN — FEES, AMOUNT — FEDERAL COMPLIANCE — CUSTOMER FEES, EFFECTIVE, EXPIRES, WHEN. — 1. The safe drinking water commission created in section 640.105 shall promulgate rules necessary for the implementation, administration and enforcement of sections 640.100 to 640.140 and the federal Safe Drinking Water Act as amended.

2. No standard, rule or regulation or any amendment or repeal thereof shall be adopted except after a public hearing to be held by the commission after at least thirty days' prior notice in the manner prescribed by the rulemaking provisions of chapter 536, RSMo, and an opportunity given to the public to be heard; the commission may solicit the views, in writing, of persons who may be affected by, knowledgeable about, or interested in proposed rules and regulations, or standards. Any person heard or registered at the hearing, or making written

request for notice, shall be given written notice of the action of the commission with respect to the subject thereof. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated to administer and enforce sections 640.100 to 640.140 shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after June 9, 1998. All rulemaking authority delegated prior to June 9, 1998, is of no force and effect and repealed as of June 9, 1998, however, nothing in this section shall be interpreted to repeal or affect the validity of any rule adopted or promulgated prior to June 9, 1998. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this chapter or chapter 644, RSMo, shall affect the validity of any rule adopted and promulgated prior to June 9, 1998.

3. The commission shall promulgate rules and regulations for the certification of public water system operators, backflow prevention assembly testers and laboratories conducting tests pursuant to sections 640.100 to 640.140. Any person seeking to be a certified backflow prevention assembly tester shall satisfactorily complete standard, nationally recognized written and performance examinations designed to ensure that the person is competent to determine if the assembly is functioning within its design specifications. Any such state certification shall satisfy any need for local certification as a backflow prevention assembly tester. However, political subdivisions may set additional testing standards for individuals who are seeking to be certified as backflow prevention assembly testers. Notwithstanding any other provision of law to the contrary, agencies of the state or its political subdivisions shall only require carbonated beverage dispensers to conform to the backflow protection requirements established in the National Sanitation Foundation standard eighteen, and the dispensers shall be so listed by an independent testing laboratory. The commission shall promulgate rules and regulations for collection of samples and analysis of water furnished by municipalities, corporations, companies, state establishments, federal establishments or individuals to the public. The department of natural resources or the department of health and senior services shall, at the request of any supplier, make any analyses or tests required pursuant to the terms of section 192.320, RSMo, and sections 640.100 to 640.140. The department shall collect fees to cover the reasonable cost of laboratory services, both within the department of natural resources and the department of health and senior services, laboratory certification and program administration as required by sections 640.100 to 640.140. The laboratory services and program administration fees pursuant to this subsection shall not exceed two hundred dollars for a supplier supplying less than four thousand one hundred service connections, three hundred dollars for supplying less than seven thousand six hundred service connections, five hundred dollars for supplying seven thousand six hundred or more service connections, and five hundred dollars for testing surface water. Such fees shall be deposited in the safe drinking water fund as specified in section 640.110. The analysis of all drinking water required by section 192.320, RSMo, and sections 640.100 to 640.140 shall be made by the department of natural resources laboratories, department of health and senior services laboratories or laboratories certified by the department of natural resources.

4. The department of natural resources shall establish and maintain an inventory of public water supplies and conduct sanitary surveys of public water systems. Such records shall be available for public inspection during regular business hours.

5. (1) For the purpose of complying with federal requirements for maintaining the primacy of state enforcement of the federal Safe Drinking Water Act, the department is hereby directed to request appropriations from the general revenue fund and all other appropriate sources to fund the activities of the public drinking water program and in addition to the fees authorized pursuant to subsection 3 of this section, an annual fee for each customer service connection with a public water system is hereby authorized to be imposed upon all customers of public water

systems in this state. The fees collected shall not exceed the amounts specified in this subsection and the commission may set the fees, by rule, in a lower amount by proportionally reducing all fees charged pursuant to this subsection from the specified maximum amounts. **Reductions shall be roughly proportional but in each case shall be divisible by twelve.** Each customer of a public water system shall pay an annual fee for each customer service connection.

(2) The annual fee per customer service connection for unmetered customers and customers with meters not greater than one inch in size shall be based upon the number of service connections in the water system serving that customer, and shall not exceed:

1 to 1,000 connections.	\$ [2.00] 3.24
1,001 to 4,000 connections.	[1.84] 3.00
4,001 to 7,000 connections.	[1.67] 2.76
7,001 to 10,000 connections.	[1.50] 2.40
10,001 to 20,000 connections.	[1.34] 2.16
20,001 to 35,000 connections.	[1.17] 1.92
35,001 to 50,000 connections.	[1.00] 1.56
50,001 to 100,000 connections.	[.84] 1.32
More than 100,000 connections.	[.66] 1.08.

(3) The annual user fee for customers having meters greater than one inch but less than or equal to two inches in size shall not exceed [five dollars] **seven dollars and forty-four cents**; for customers with meters greater than two inches but less than or equal to four inches in size shall not exceed [twenty-five dollars] **forty-one dollars and sixteen cents**; and for customers with meters greater than four inches in size shall not exceed [fifty dollars] **eighty-two dollars and forty-four cents.**

(4) Customers served by multiple connections shall pay an annual user fee based on the above rates for each connection, except that no single facility served by multiple connections shall pay a total of more than five hundred dollars per year.

6. Fees imposed pursuant to subsection 5 of this section shall become effective on [August 28, 1992] **August 28, 2006**, and shall be collected by the public water system serving the customer **beginning September 1, 2006, and continuing until such time that the safe drinking water commission, at its discretion, specifies a lower amount under subdivision (1) of subsection 5 of this section.** The commission shall promulgate rules and regulations on the procedures for billing, collection and delinquent payment. Fees collected by a public water system pursuant to subsection 5 of this section are state fees. The annual fee shall be enumerated separately from all other charges, and shall be collected in monthly, quarterly or annual increments. Such fees shall be transferred to the director of the department of revenue at frequencies not less than quarterly. Two percent of the revenue arising from the fees shall be retained by the public water system for the purpose of reimbursing its expenses for billing and collection of such fees.

7. Imposition and collection of the fees authorized in subsection 5 of this section shall be suspended on the first day of a calendar quarter if, during the preceding calendar quarter, the federally delegated authority granted to the safe drinking water program within the department of natural resources to administer the Safe Drinking Water Act, 42 U.S.C. 300g-2, is withdrawn. The fee shall not be reinstated until the first day of the calendar quarter following the quarter during which such delegated authority is reinstated.

8. Fees imposed pursuant to subsection 5 of this section shall expire on September 1, [2007] **2012.**

644.016. DEFINITIONS. — When used in sections 644.006 to 644.141 and in standards, rules and regulations promulgated pursuant to sections 644.006 to 644.141, the following words and phrases mean:

(1) "Aquaculture facility", a hatchery, fish farm, or other facility used for the production of aquatic animals that is required to have a permit pursuant to the federal Clean Water Act, as amended, 33 U.S.C. 1251 et seq.;

(2) "Commission", the clean water commission of the state of Missouri created in section 644.021;

(3) "Conference, conciliation and persuasion", a process of verbal or written communications consisting of meetings, reports, correspondence or telephone conferences between authorized representatives of the department and the alleged violator. The process shall, at a minimum, consist of one offer to meet with the alleged violator tendered by the department. During any such meeting, the department and the alleged violator shall negotiate in good faith to eliminate the alleged violation and shall attempt to agree upon a plan to achieve compliance;

(4) "Department", the department of natural resources;

(5) "Director", the director of the department of natural resources;

(6) "Discharge", the causing or permitting of one or more water contaminants to enter the waters of the state;

(7) "Effluent control regulations", limitations on the discharge of water contaminants;

(8) "General permit", a permit written with a standard group of conditions and with applicability intended for a designated category of water contaminant sources that have the same or similar operations, discharges and geographical locations, and that require the same or similar monitoring, and that would be more appropriately controlled pursuant to a general permit rather than pursuant to a site-specific permit;

(9) "Human sewage", human excreta and wastewater, including bath and toilet waste, residential laundry waste, residential kitchen waste, and other similar waste from household or establishment appurtenances;

(10) "Income" includes retirement benefits, consultant fees, and stock dividends;

(11) "Minor violation", a violation which possesses a small potential to harm the environment or human health or cause pollution, was not knowingly committed, and is not defined by the United States Environmental Protection Agency as other than minor;

(12) "Permit by rule", a permit granted by rule, not by a paper certificate, and conditioned by the permit holder's compliance with commission rules;

(13) "Permit holders or applicants for a permit" shall not include officials or employees who work full time for any department or agency of the state of Missouri;

(14) "Person", any individual, partnership, copartnership, firm, company, public or private corporation, association, joint stock company, trust, estate, political subdivision, or any agency, board, department, or bureau of the state or federal government, or any other legal entity whatever which is recognized by law as the subject of rights and duties;

(15) "Point source", any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. **Point source does not include agricultural storm water discharges and return flows from irrigated agriculture;**

(16) "Pollution", such contamination or other alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is reasonably certain to create a nuisance or render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, industrial, agricultural, recreational, or other legitimate beneficial uses, or to wild animals, birds, fish or other aquatic life;

(17) "Pretreatment regulations", limitations on the introduction of pollutants or water contaminants into publicly owned treatment works or facilities which the commission determines are not susceptible to treatment by such works or facilities or which would interfere with their operation, except that wastes as determined compatible for treatment pursuant to any federal

water pollution control act or guidelines shall be limited or treated pursuant to this chapter only as required by such act or guidelines;

(18) "Residential housing development", any land which is divided or proposed to be divided into three or more lots, whether contiguous or not, for the purpose of sale or lease as part of a common promotional plan for residential housing;

(19) "Sewer system", pipelines or conduits, pumping stations, and force mains, and all other structures, devices, appurtenances and facilities used for collecting or conducting wastes to an ultimate point for treatment or handling;

(20) "Significant portion of his or her income" shall mean ten percent of gross personal income for a calendar year, except that it shall mean fifty percent of gross personal income for a calendar year if the recipient is over sixty years of age, and is receiving such portion pursuant to retirement, pension, or similar arrangement;

(21) "Site-specific permit", a permit written for discharges emitted from a single water contaminant source and containing specific conditions, monitoring requirements and effluent limits to control such discharges;

(22) "Treatment facilities", any method, process, or equipment which removes, reduces, or renders less obnoxious water contaminants released from any source;

(23) "Water contaminant", any particulate matter or solid matter or liquid or any gas or vapor or any combination thereof, or any temperature change which is in or enters any waters of the state either directly or indirectly by surface runoff, by sewer, by subsurface seepage or otherwise, which causes or would cause pollution upon entering waters of the state, or which violates or exceeds any of the standards, regulations or limitations set forth in sections 644.006 to 644.141 or any federal water pollution control act, or is included in the definition of pollutant in such federal act;

(24) "Water contaminant source", the point or points of discharge from a single tract of property on which is located any installation, operation or condition which includes any point source defined in sections 644.006 to 644.141 and nonpoint source pursuant to any federal water pollution control act, which causes or permits a water contaminant therefrom to enter waters of the state either directly or indirectly;

(25) "Water quality standards", specified concentrations and durations of water contaminants which reflect the relationship of the intensity and composition of water contaminants to potential undesirable effects;

(26) "Waters of the state", all rivers, streams, lakes and other bodies of surface and subsurface water lying within or forming a part of the boundaries of the state which are not entirely confined and located completely upon lands owned, leased or otherwise controlled by a single person or by two or more persons jointly or as tenants in common and includes waters of the United States lying within the state.

644.036. PUBLIC HEARINGS — RULES AND REGULATIONS, HOW PROMULGATED — LISTINGS UNDER CLEAN WATER ACT, REQUIREMENTS, PROCEDURES, EXPIRATION DATE.

— 1. No standard, rule or regulation or any amendment or repeal thereof shall be adopted except after a public hearing to be held after thirty days' prior notice by advertisement of the date, time and place of the hearing and opportunity given to the public to be heard. Notice of the hearings and copies of the proposed standard, rule or regulation or any amendment or repeal thereof shall also be given by regular mail, at least thirty days prior to the scheduled date of the hearing, to any person who has registered with the director for the purpose of receiving notice of such public hearings in accordance with the procedures prescribed by the commission at least forty-five days prior to the scheduled date of the hearing. However, this provision shall not preclude necessary changes during this thirty-day period.

2. At the hearing, opportunity to be heard by the commission with respect to the subject thereof shall be afforded any interested person upon written request to the commission, addressed to the director, not later than seven days prior to the hearing, and may be afforded to other

persons if convenient. In addition, any interested persons, whether or not heard, may submit, within seven days subsequent to the hearings, a written statement of their views. The commission may solicit the views, in writing, of persons who may be affected by, or interested in, proposed rules and regulations, or standards. Any person heard or represented at the hearing or making written request for notice shall be given written notice of the action of the commission with respect to the subject thereof.

3. Any standard, rule or regulation or amendment or repeal thereof shall not be deemed adopted or in force and effect until it has been approved in writing by at least four members of the commission. A standard, rule or regulation or an amendment or repeal thereof shall not become effective until a certified copy thereof has been filed with the secretary of state as provided in chapter 536, RSMo.

4. Unless prohibited by any federal water pollution control act, any standard, rule or regulation or any amendment or repeal thereof which is adopted by the commission may differ in its terms and provisions as between particular types and conditions of water quality standards or of water contaminants, as between particular classes of water contaminant sources, and as between particular waters of the state.

5. Any listing required by Section 303(d) of the federal Clean Water Act, as amended, 33 U.S.C. 1251 et seq., to be sent to the U.S. Environmental Protection Agency for [their] its approval that will result in any waters of [this] the state being classified as impaired shall be adopted by [rule pursuant to chapter 536, RSMo. Total maximum daily loads shall not be required for any listed waters that subsequently are determined to meet water quality standards] **the commission after a public hearing, or series of hearings, held in accordance with the following procedures. The department of natural resources shall publish in at least six regional newspapers, in advance, a notice by advertisement the availability of a proposed list of impaired waters of the state and such notice shall include at least ninety days' advance notice of the date, time, and place of the public hearing and opportunity given to the public to be heard. Notice of the hearings and copies of the proposed list of impaired waters also shall be posted on the department of natural resources' website and given by regular mail, at least ninety days prior to the scheduled date of the hearing, to any person who has registered with the director for the purpose of receiving notice of such public hearings. The proposed list of impaired waters shall identify the water segment, the uses to be made of such waters, the uses impaired, identify the pollutants causing or expected to cause violations of the applicable water quality standards, and provide a summary of the data relied upon to make the preliminary determination. Contemporaneous with the publication of the notice of public hearing, the department shall make available on its website all data and information it relied upon to prepare the proposed list of impaired waters, including a narrative explanation of how the department determined the water segment was impaired. At any time after the public notice and until seven days after the public hearing, the department shall accept written comments on the proposed list of impaired waters. After the public hearing and after all written comments have been submitted, the department shall prepare a written response to all comments and a revised list of impaired waters. The commission shall adopt a list of impaired waters in a public meeting during which the public shall be afforded an opportunity to respond to the department's written response to comments and revised list of impaired waters. Notice of the meeting shall include the date, time, and place of the public meeting and shall provide notice that the commission will give interested persons the opportunity to respond to the department's revised list of impaired waters and written responses to comments. At its discretion, the commission may extend public comment periods or hold additional public hearings on the proposed and revised lists of impaired waters. The commission shall not vote to add to the list of impaired waters any waters not recommended by the department in the proposed or revised lists of impaired waters without granting the public at least thirty additional days to comment on the proposed addition. The list of impaired waters**

adopted by the commission shall not be deemed to be a rule as defined by section 536.010, RSMo. The listing of any water segment on the list of impaired waters adopted by the commission shall be subject to judicial review by any adversely affected party under section 536.150, RSMo. The provisions in this subsection shall expire on August 28, 2009.

644.051. PROHIBITED ACTS — PERMITS REQUIRED, WHEN, FEE — BOND REQUIRED OF PERMIT HOLDERS, WHEN — PERMIT APPLICATION PROCEDURES — RULEMAKING — LIMITATION ON USE OF PERMIT FEE MONEYS. — 1. It is unlawful for any person:

(1) To cause pollution of any waters of the state or to place or cause or permit to be placed any water contaminant in a location where it is reasonably certain to cause pollution of any waters of the state;

(2) To discharge any water contaminants into any waters of the state which reduce the quality of such waters below the water quality standards established by the commission;

(3) To violate any pretreatment and toxic material control regulations, or to discharge any water contaminants into any waters of the state which exceed effluent regulations or permit provisions as established by the commission or required by any federal water pollution control act;

(4) To discharge any radiological, chemical, or biological warfare agent or high-level radioactive waste into the waters of the state.

2. It shall be unlawful for any person to build, erect, alter, replace, operate, use or maintain any water contaminant or point source in this state that is subject to standards, rules or regulations promulgated pursuant to the provisions of sections 644.006 to 644.141 unless such person holds a permit from the commission, subject to such exceptions as the commission may prescribe by rule or regulation. However, no permit shall be required of any person for any emission into publicly owned treatment facilities or into publicly owned sewer systems tributary to publicly owned treatment works.

3. Every proposed water contaminant or point source which, when constructed or installed or established, will be subject to any federal water pollution control act or sections 644.006 to 644.141 or regulations promulgated pursuant to the provisions of such act shall make application to the director for a permit at least thirty days prior to the initiation of construction or installation or establishment. Every water contaminant or point source in existence when regulations or sections 644.006 to 644.141 become effective shall make application to the director for a permit within sixty days after the regulations or sections 644.006 to 644.141 become effective, whichever shall be earlier. The director shall promptly investigate each application, which investigation shall include such hearings and notice, and consideration of such comments and recommendations as required by sections 644.006 to 644.141 and any federal water pollution control act. If the director determines that the source meets or will meet the requirements of sections 644.006 to 644.141 and the regulations promulgated pursuant thereto, the director shall issue a permit with such conditions as he or she deems necessary to ensure that the source will meet the requirements of sections 644.006 to 644.141 and any federal water pollution control act as it applies to sources in this state. If the director determines that the source does not meet or will not meet the requirements of either act and the regulations pursuant thereto, the director shall deny the permit pursuant to the applicable act and issue any notices required by sections 644.006 to 644.141 and any federal water pollution control act.

4. Before issuing a permit to build or enlarge a water contaminant or point source or reissuing any permit, the director shall issue such notices, conduct such hearings, and consider such factors, comments and recommendations as required by sections 644.006 to 644.141 or any federal water pollution control act. The director shall determine if any state or any provisions of any federal water pollution control act the state is required to enforce, any state or federal effluent limitations or regulations, water quality-related effluent limitations, national standards of performance, toxic and pretreatment standards, or water quality standards which apply to the source, or any such standards in the vicinity of the source, are being exceeded, and shall

determine the impact on such water quality standards from the source. The director, in order to effectuate the purposes of sections 644.006 to 644.141, shall deny a permit if the source will violate any such acts, regulations, limitations or standards or will appreciably affect the water quality standards or the water quality standards are being substantially exceeded, unless the permit is issued with such conditions as to make the source comply with such requirements within an acceptable time schedule. Prior to the development or renewal of a general permit or permit by rule, for aquaculture, the director shall convene a meeting or meetings of permit holders and applicants to evaluate the impacts of permits and to discuss any terms and conditions that may be necessary to protect waters of the state. Following the discussions, the director shall finalize a draft permit that considers the comments of the meeting participants and post the draft permit on notice for public comment. The director shall concurrently post with the draft permit an explanation of the draft permit and shall identify types of facilities which are subject to the permit conditions. Affected public or applicants for new general permits, renewed general permits or permits by rule may request a hearing with respect to the new requirements in accordance with this section. If a request for a hearing is received, the commission shall hold a hearing to receive comments on issues of significant technical merit and concerns related to the responsibilities of the Missouri clean water law. The commission shall conduct such hearings in accordance with this section. After consideration of such comments, a final action on the permit shall be rendered. The time between the date of the hearing request and the hearing itself shall not be counted as time elapsed pursuant to subdivision (1) of subsection 13 of this section.

5. The director shall grant or deny the permit within sixty days after all requirements of the Federal Water Pollution Control Act concerning issuance of permits have been satisfied unless the application does not require any permit pursuant to any federal water pollution control act. The director or the commission may require the applicant to provide and maintain such facilities or to conduct such tests and monitor effluents as necessary to determine the nature, extent, quantity or degree of water contaminant discharged or released from the source, establish and maintain records and make reports regarding such determination.

6. The director shall promptly notify the applicant in writing of his or her action and if the permit is denied state the reasons therefor. The applicant may appeal to the commission from the denial of a permit or from any condition in any permit by filing notice of appeal with the commission within thirty days of the notice of denial or issuance of the permit. The commission shall set the matter for hearing not less than thirty days after the notice of appeal is filed. In no event shall a permit constitute permission to violate the law or any standard, rule or regulation promulgated pursuant thereto.

7. In any hearing held pursuant to this section the burden of proof is on the applicant for a permit. Any decision of the commission made pursuant to a hearing held pursuant to this section is subject to judicial review as provided in section 644.071.

8. In any event, no permit issued pursuant to this section shall be issued if properly objected to by the federal government or any agency authorized to object pursuant to any federal water pollution control act unless the application does not require any permit pursuant to any federal water pollution control act.

9. Unless a site-specific permit is requested by the applicant, aquaculture facilities shall be governed by a general permit issued pursuant to this section with a fee not to exceed two hundred fifty dollars pursuant to subdivision (5) of subsection 6 of section 644.052. However, any aquaculture facility which materially violates the conditions and requirements of such permit may be required to obtain a site-specific permit.

10. No manufacturing or processing plant or operating location shall be required to pay more than one operating fee. Operating permits shall be issued for a period not to exceed five years after date of issuance, except that general permits shall be issued for a five-year period, and also except that neither a construction nor an annual permit shall be required for a single residence's waste treatment facilities. Applications for renewal of an operating permit shall be filed at least one hundred eighty days prior to the expiration of the existing permit.

11. Every permit issued to municipal or any publicly owned treatment works or facility shall require the permittee to provide the clean water commission with adequate notice of any substantial new introductions of water contaminants or pollutants into such works or facility from any source for which such notice is required by sections 644.006 to 644.141 or any federal water pollution control act. Such permit shall also require the permittee to notify the clean water commission of any substantial change in volume or character of water contaminants or pollutants being introduced into its treatment works or facility by a source which was introducing water contaminants or pollutants into its works at the time of issuance of the permit. Notice must describe the quality and quantity of effluent being introduced or to be introduced into such works or facility by a source which was introducing water contaminants or pollutants into its works at the time of issuance of the permit. Notice must describe the quality and quantity of effluent being introduced or to be introduced into such works or facility and the anticipated impact of such introduction on the quality or quantity of effluent to be released from such works or facility into waters of the state.

12. The director or the commission may require the filing or posting of a bond as a condition for the issuance of permits for construction of temporary or future water treatment facilities **or facilities that utilize innovative technology for wastewater treatment** in an amount determined by the commission to be sufficient to ensure compliance with all provisions of sections 644.006 to 644.141, and any rules or regulations of the commission and any condition as to such construction in the permit. **For the purposes of this section, "innovative technology for wastewater treatment" shall mean a completely new and generally unproven technology in the type or method of its application that bench testing or theory suggest has environmental, efficiency, and cost benefits beyond the standard technologies. No bond shall be required for designs approved by any federal agency or environmental regulatory agency of another state.** The bond shall be signed by the applicant as principal, and by a corporate surety licensed to do business in the state of Missouri and approved by the commission. The bond shall remain in effect until the terms and conditions of the permit are met and the provisions of sections 644.006 to 644.141 and rules and regulations promulgated pursuant thereto are complied with.

13. (1) The department shall issue or deny applications for construction and site-specific operating permits received after January 1, 2001, within one hundred eighty days of the department's receipt of an application. For general construction and operating permit applications received after January 1, 2001, that do not require a public participation process, the department shall issue or deny the requested permits within sixty days of the department's receipt of an application.

(2) If the department fails to issue or deny with good cause a construction or operating permit application within the time frames established in subdivision (1) of this subsection, the department shall refund the full amount of the initial application fee within forty-five days of failure to meet the established time frame. If the department fails to refund the application fee within forty-five days, the refund amount shall accrue interest at a rate established pursuant to section 32.065, RSMo.

(3) Permit fee disputes may be appealed to the commission within thirty days of the date established in subdivision (2) of this subsection. If the applicant prevails in a permit fee dispute appealed to the commission, the commission may order the director to refund the applicant's permit fee plus interest and reasonable attorney's fees as provided in sections 536.085 and 536.087, RSMo. A refund of the initial application or annual fee does not waive the applicant's responsibility to pay any annual fees due each year following issuance of a permit.

(4) No later than December 31, 2001, the commission shall promulgate regulations defining shorter review time periods than the time frames established in subdivision (1) of this subsection, when appropriate, for different classes of construction and operating permits. In no case shall commission regulations adopt permit review times that exceed the time frames established in subdivision (1) of this subsection. The department's failure to comply with the

commission's permit review time periods shall result in a refund of said permit fees as set forth in subdivision (2) of this subsection. On a semiannual basis, the department shall submit to the commission a report which describes the different classes of permits and reports on the number of days it took the department to issue each permit from the date of receipt of the application and show averages for each different class of permits.

(5) During the department's technical review of the application, the department may request the applicant submit supplemental or additional information necessary for adequate permit review. The department's technical review letter shall contain a sufficient description of the type of additional information needed to comply with the application requirements.

(6) Nothing in this subsection shall be interpreted to mean that inaction on a permit application shall be grounds to violate any provisions of sections 644.006 to 644.141 or any rules promulgated pursuant to sections 644.006 to 644.141.

14. The department shall respond to all requests for individual certification under Section 401 of the Federal Clean Water Act within the lesser of sixty days or the allowed response period established pursuant to applicable federal regulations without request for an extension period unless such extension is determined by the commission to be necessary to evaluate significant impacts on water quality standards and the commission establishes a timetable for completion of such evaluation in a period of no more than one hundred eighty days.

15. All permit fees generated pursuant to this chapter shall not be used for the development or expansion of total maximum daily loads studies on either the Missouri or Mississippi rivers.

644.054. FEES, BILLING AND COLLECTION — ADMINISTRATION, GENERALLY — FEES TO BECOME EFFECTIVE, WHEN — FEES TO EXPIRE, WHEN — VARIANCES GRANTED, WHEN — JOINT COMMITTEE FOR RESTRUCTURING FEES TO BE APPOINTED, REPORT — JOINT COMMITTEE CONVENED TO CONSIDER FEE RESTRUCTURING REPORT. — 1. Fees imposed in sections 644.052 and 644.053 shall, except for those fees imposed pursuant to subsection 4 and subsections 6 to 13 of section 644.052, become effective October 1, 1990, and shall expire December 31, [2007] **2009**. Fees imposed pursuant to subsection 4 and subsections 6 to 13 of section 644.052 shall become effective August 28, 2000, and shall expire on December 31, [2007] **2009**. The clean water commission shall promulgate rules and regulations on the procedures for billing and collection. All sums received through the payment of fees shall be placed in the state treasury and credited to an appropriate subaccount of the natural resources protection fund created in section 640.220, RSMo. Moneys in the subaccount shall be expended, upon appropriation, solely for the administration of sections 644.006 to 644.141. Fees collected pursuant to subsection 10 of section 644.052 by a city, a public sewer district, a public water district or other publicly owned treatment works are state fees. Five percent of the fee revenue collected shall be retained by the city, public sewer district, public water district or other publicly owned treatment works as reimbursement of billing and collection expenses.

2. The commission may grant a variance pursuant to section 644.061 to reduce fees collected pursuant to section 644.052 for facilities that adopt systems or technologies that reduce the discharge of water contaminants substantially below the levels required by commission rules.

3. Fees imposed in subsections 2 to 6 of section 644.052 shall be due [in accordance with the following schedule after August 27, 2000:

(1) For new or renewed permits, fees shall be due] on the date of application and on each anniversary date of permit issuance thereafter until the permit is terminated[;

(2) For permits in effect on August 27, 2000, fees shall be due on each anniversary date of permit issuance until the permit is terminated;

(3) For general permits issued pursuant to subdivisions (2) and (4) of subsection 6 of section 644.052 and in effect on August 27, 2000, the permittee will be credited thirty dollars on each anniversary date of permit issuance that falls between August 27, 2000, and the date the permit expires].

4. There shall be convened a joint committee appointed by the president pro tem of the senate and the speaker of the house of representatives to consider proposals for restructuring the fees imposed in sections 644.052 and 644.053. The committee shall review stormwater programs, the state's implementation of the federal clean water program and related state clean water responsibilities and evaluate the costs to the state for maintaining the programs. The committee shall prepare and submit a report including recommendations on funding the state clean water program and stormwater programs to the governor, the house of representatives, and the senate no later than December 31, 2008.

644.587. BOARD MAY BORROW ADDITIONAL \$10,000,000 FOR PURPOSES OF WATER POLLUTION, IMPROVEMENT OF DRINKING WATER, AND STORM WATER CONTROL. — In addition to those sums authorized prior to August 28, 2007, the board of fund commissioners of the state of Missouri, as authorized by section 37(e) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of ten million dollars in the manner described, and for purposes set out, in chapter 640, RSMo, and this chapter.

644.588. BOARD MAY BORROW ADDITIONAL \$10,000,000 FOR PURPOSES OF RURAL WATER AND SEWER GRANTS AND LOANS. — In addition to those sums authorized prior to August 28, 2007, the board of fund commissioners of the state of Missouri, as authorized by section 37(g) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of ten million dollars in the manner described, and the purposes set out, in chapter 640, RSMo, and in this chapter.

644.589. BOARD MAY BORROW ADDITIONAL \$20,000,000 FOR PURPOSES OF STORM WATER CONTROL. — In addition to those sums authorized prior to August 28, 2007, the board of fund commissioners of the state of Missouri, as authorized by section 37(h) of article III of the Constitution of the state of Missouri, may borrow on the credit of this state the sum of twenty million dollars in the manner described, and for the purposes set out, in chapter 640, RSMo, and in this chapter.

701.450. EQUAL NUMBER OF WATER CLOSETS, DIAPER CHANGING STATIONS, REQUIREMENTS — EXTENSION OF TIME FOR COMPLIANCE, REQUIREMENTS (ST. LOUIS CITY). — 1. For any facility for which construction commences after August 28, 1995, which is constructed as a place of assembly for public amusement including, but not limited to, sports stadiums and arenas, auditoriums and assembly halls, there shall be provided an equal number of water closets for women as there are the number of water closets and urinals provided for men, and there shall be provided an equal number of diaper changing stations for men as there are the number provided for women.

2. Each facility described in subsection 1 of this section constructed or under construction prior to August 28, 1995, shall provide water closets in the same ratio as required in subsection 1 of this section whenever such facility undergoes major structural renovation.

3. As used in subsection 2 of this section, the term "major structural renovation" means any reconstruction, rehabilitation, addition or other improvement which required more than fifty percent of the gross floor area of the existing facility to be rebuilt. The provisions of this act shall only apply to such portions of the building being renovated and not to the entire building.

4. Notwithstanding any other provision of this section to the contrary, if any facility described in subsection 1 of this section located in any city not within a county is constructed in compliance with the requirements of the applicable building and plumbing codes of such city related to the minimum number of water closets that are designated for

women, such facility shall not be required to comply with the requirements of subsection 1 of this section until one year following the date of its substantial completion.

Approved July 12, 2006

HB 1180 [HCS HB 1180]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Allows certain school districts to provide transportation to students who live less than one mile from school and be reimbursed by the state if unsafe traffic situations can be demonstrated

AN ACT to repeal section 167.231, RSMo, and to enact in lieu thereof one new section relating to student transportation.

SECTION

A. Enacting clause.

167.231. Transportation of pupils by districts, except metropolitan — mileage limits for state aid — extra transportation, district expense — election, ballot form.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 167.231, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 167.231, to read as follows:

167.231. TRANSPORTATION OF PUPILS BY DISTRICTS, EXCEPT METROPOLITAN — MILEAGE LIMITS FOR STATE AID — EXTRA TRANSPORTATION, DISTRICT EXPENSE — ELECTION, BALLOT FORM. — 1. Within all school districts except metropolitan districts the board of education shall provide transportation to and from school for all pupils living more than three and one-half miles from school and may provide transportation for all pupils. State aid for transportation shall be paid as provided in section 163.161, RSMo, only on the basis of the cost of pupil transportation for those pupils living one mile or more from school, including transportation provided to and from publicly operated university laboratory schools. The board of education may provide transportation for pupils living less than one mile from school at the expense of the district and may prescribe reasonable rules and regulations as to eligibility of pupils for transportation, **and, notwithstanding any other provision of law, no such district shall be subject to an administrative penalty when the district demonstrates pursuant to rule established by the state board of education that such students are required to cross a state highway or county arterial in the absence of sidewalks, traffic signals, or a crossing guard and that no existing bus stop location has been changed to permit a district to evade such penalty.** If no increase in the tax levy of the school district is required to provide transportation for pupils living less than one mile from the school, the board may transport said pupils. If an increase in the tax levy of the school district is required to provide transportation for pupils living less than one mile from school, the board shall submit the question at a public election. If a two-thirds majority of the voters voting on the question at the election are in favor of providing the transportation, the board shall arrange and provide therefor.

2. The proposal and the ballots may be in substantially the following form:

Shall the board of education of the school district provide transportation at the expense of the district for pupils living less than one mile from school and be authorized to levy an

additional tax of cents on the one hundred dollars assessed valuation to provide funds to pay for such transportation service?

☐ YES ☐ NO

(If you are in favor of the proposition (or question), place an X in the box opposite "YES". If you are opposed to the proposition (or question), place an X in the box opposite "NO".)

3. The board of education of any school district may provide transportation to and from school for any public school pupil not otherwise eligible for transportation under the provisions of state law, and may prescribe reasonable rules and regulations as to eligibility for transportation, if the parents or guardian of the pupil agree in writing to pay the actual cost of transporting the pupil. The minimum charge would be the actual cost of transporting the pupil for ninety school days, which actual cost is to be determined by the average per pupil cost of transporting children in the school district during the preceding school year. The full actual cost shall be paid by the parent or guardian of the pupil and shall not be paid out of any state school aid funds or out of any other revenues of the school district. The cost of transportation may be paid in installments, and the board of education shall establish the cost of the transportation and the time or times and method of payment.

Approved June 21, 2006

HB 1182 [HCS HB 1182]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Allows parents, legal guardians, or other persons with custodial rights to petition a court to extend his or her child's age of majority to 18 for all purposes under state law

AN ACT to repeal section 167.031, RSMo, and to enact in lieu thereof two new sections relating to jurisdiction of the juvenile court.

SECTION

A. Enacting clause.

167.031. School attendance compulsory, who may be excused — nonattendance, penalty — home school, definition, requirements — school year defined — daily log, defense to prosecution — compulsory attendance age for the district defined.

211.034. Extension of juvenile court jurisdiction permitted, when — procedure — immunity from liability for certain persons, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 167.031, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 167.031 and 211.034, to read as follows:

167.031. SCHOOL ATTENDANCE COMPULSORY, WHO MAY BE EXCUSED — NONATTENDANCE, PENALTY — HOME SCHOOL, DEFINITION, REQUIREMENTS — SCHOOL YEAR DEFINED — DAILY LOG, DEFENSE TO PROSECUTION — COMPULSORY ATTENDANCE AGE FOR THE DISTRICT DEFINED. — 1. Every parent, guardian or other person in this state having charge, control or custody of a child not enrolled in a public, private, parochial, parish school or full-time equivalent attendance in a combination of such schools and between the ages of seven years and the compulsory attendance age for the district is responsible for enrolling the child in a program of academic instruction which complies with subsection 2 of this section. Any parent, guardian or other person who enrolls a child between the ages of five and seven

years in a public school program of academic instruction shall cause such child to attend the academic program on a regular basis, according to this section. Nonattendance by such child shall cause such parent, guardian or other responsible person to be in violation of the provisions of section 167.061, except as provided by this section. A parent, guardian or other person in this state having charge, control, or custody of a child between the ages of seven years of age and the compulsory attendance age for the district shall cause the child to attend regularly some public, private, parochial, parish, home school or a combination of such schools not less than the entire school term of the school which the child attends; except that

(1) A child who, to the satisfaction of the superintendent of public schools of the district in which he resides, or if there is no superintendent then the chief school officer, is determined to be mentally or physically incapacitated may be excused from attendance at school for the full time required, or any part thereof;

(2) A child between fourteen years of age and the compulsory attendance age for the district may be excused from attendance at school for the full time required, or any part thereof, by the superintendent of public schools of the district, or if there is none then by a court of competent jurisdiction, when legal employment has been obtained by the child and found to be desirable, and after the parents or guardian of the child have been advised of the pending action; or

(3) A child between five and seven years of age shall be excused from attendance at school if a parent, guardian or other person having charge, control or custody of the child makes a written request that the child be dropped from the school's rolls.

2. (1) As used in sections 167.031 to 167.071, a "home school" is a school, whether incorporated or unincorporated, that:

(a) Has as its primary purpose the provision of private or religious-based instruction;

(b) Enrolls pupils between the ages of seven years and the compulsory attendance age for the district, of which no more than four are unrelated by affinity or consanguinity in the third degree; and

(c) Does not charge or receive consideration in the form of tuition, fees, or other remuneration in a genuine and fair exchange for provision of instruction;

(2) As evidence that a child is receiving regular instruction, the parent shall, except as otherwise provided in this subsection:

(a) Maintain the following records:

a. A plan book, diary, or other written record indicating subjects taught and activities engaged in; and

b. A portfolio of samples of the child's academic work; and

c. A record of evaluations of the child's academic progress; or

d. Other written, or credible evidence equivalent to subparagraphs a., b. and c.; and

(b) Offer at least one thousand hours of instruction, at least six hundred hours of which will be in reading, language arts, mathematics, social studies and science or academic courses that are related to the aforementioned subject areas and consonant with the pupil's age and ability. At least four hundred of the six hundred hours shall occur at the regular home school location;

(3) The requirements of subdivision (2) of this subsection shall not apply to any pupil above the age of sixteen years.

3. Nothing in this section shall require a private, parochial, parish or home school to include in its curriculum any concept, topic, or practice in conflict with the school's religious doctrines or to exclude from its curriculum any concept, topic, or practice consistent with the school's religious doctrines. Any other provision of the law to the contrary notwithstanding, all departments or agencies of the state of Missouri shall be prohibited from dictating through rule, regulation or other device any statewide curriculum for private, parochial, parish or home schools.

4. A school year begins on the first day of July and ends on the thirtieth day of June following.

5. The production by a parent of a daily log showing that a home school has a course of instruction which satisfies the requirements of this section or, in the case of a pupil over the age of sixteen years who attended a metropolitan school district the previous year, a written statement that the pupil is attending home school in compliance with this section shall be a defense to any prosecution under this section and to any charge or action for educational neglect brought pursuant to chapter 210, RSMo.

6. As used in sections 167.031 to 167.051, the term "compulsory attendance age for the district" shall mean:

(1) Seventeen years of age for any metropolitan school district for which the school board adopts a resolution to establish such compulsory attendance age; provided that such resolution shall take effect no earlier than the school year next following the school year during which the resolution is adopted; and

(2) Sixteen years of age in all other cases.

The school board of a metropolitan school district for which the compulsory attendance age is seventeen years may adopt a resolution to lower the compulsory attendance age to sixteen years; provided that such resolution shall take effect no earlier than the school year next following the school year during which the resolution is adopted.

7. The provisions of this section shall apply to any parent, guardian, or other person in this state having charge, control, or custody of a child between the ages of fifteen and eighteen if such child has not received a high school diploma or its equivalent and a court order has been issued as to such child under section 211.034, RSMo.

211.034. EXTENSION OF JUVENILE COURT JURISDICTION PERMITTED, WHEN — PROCEDURE — IMMUNITY FROM LIABILITY FOR CERTAIN PERSONS, WHEN. — 1. Any parent, legal guardian, or other person having legal custody of a minor child may, at any time after the minor child attains fifteen years of age and before the minor child attains eighteen years of age, petition the circuit court for the county where the minor child and parent, legal guardian, or other person having legal custody of the minor child reside to extend the jurisdiction of the juvenile court until the minor child reaches the age of eighteen years.

2. The petition shall be accompanied by verified proof of service on the minor child and certified copies of documents demonstrating that the petitioner is the parent, legal guardian, or other legal custodian of the minor child. If the petitioner is not the natural parent of the minor child, the petition shall be accompanied by:

(1) An affidavit from at least one of the child's natural parents consenting to the granting of the petition; or

(2) An affidavit from the petitioner stating that the natural parents:

(a) Are deceased;

(b) Have been declared legally incompetent;

(c) Have had their parental rights as to the minor child terminated by a court of competent jurisdiction;

(d) Have voluntarily surrendered their parental rights as to the minor child;

(e) Have abandoned the minor child;

(f) Are unknown; or

(g) Are otherwise unavailable, in which case, the affidavit shall state the reasons why the natural parents are unavailable.

In all cases where any parent, legal guardian, or other person having legal custody of a minor child petitions the court to extend the jurisdiction of the juvenile court until the minor child's eighteenth birthday, the court shall appoint an attorney to represent the minor child. An individual filing the petition shall pay the attorney fees of the minor child.

3. Upon the filing of a petition under this section and a determination by the court in favor of the petitioner, the circuit court shall issue an order declaring that the minor

child shall remain under the jurisdiction of the juvenile court for all purposes under state law until the minor child reaches eighteen years of age; except that, for purposes of criminal law and procedure, including arrest, prosecution, trial, and punishment, if the minor is certified as an adult, the minor shall remain a certified adult despite the issuance of a court order under this section. Such minor child shall be subject to the compulsory school attendance requirements of section 167.031, RSMo, until the minor child receives a high school diploma or its equivalent, or reaches eighteen years of age. The court order shall be filed with the circuit clerk for the county where the petitioner resides.

4. Nothing in this section shall be construed as creating any civil or criminal liability for any law enforcement officer, juvenile officer, school personnel, or court personnel for any action taken or failure to take any action involving a minor child who remains under the jurisdiction of the juvenile court under this section if such action or failure to take action is based on a good faith belief by such officer or personnel that the minor child is not under the jurisdiction of the juvenile court.

Approved June 12, 2006

HB 1204 [HB 1204]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes jailers to serve arrest warrants on persons who are already inmates in the custody of the facility in which the jailer is employed

AN ACT to amend chapter 221, RSMo, by adding thereto one new section relating to duties of jailers.

SECTION

A. Enacting clause.

221.515. Jailers authorized to serve arrest warrants on inmates.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 221, RSMo, is amended by adding thereto one new section, to be known as section 221.515, to read as follows:

221.515. JAILERS AUTHORIZED TO SERVE ARREST WARRANTS ON INMATES. — Any person designated a jailer under the provisions of this chapter shall have the power to serve an arrest warrant on any person who is already an inmate in the custody of the facility in which such jailer is employed.

Approved June 9, 2006

HB 1222 [HB 1222]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes the appointment of special deputy coroners or medical examiners in the event of a natural disaster, mass casualties, or other emergency

AN ACT to amend chapter 58, RSMo, by adding thereto one new section relating to special deputy coroners and medical examiners.

SECTION

- A. Enacting clause.
58.217. Special deputy coroner or special deputy medical examiner may be appointed, when — record-keeping requirements.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 58, RSMo, is amended by adding thereto one new section, to be known as section 58.217, to read as follows:

58.217. SPECIAL DEPUTY CORONER OR SPECIAL DEPUTY MEDICAL EXAMINER MAY BE APPOINTED, WHEN — RECORD-KEEPING REQUIREMENTS. — 1. The coroner or medical examiner of any county or any city not within a county may, for a period not to exceed thirty days, appoint a special deputy coroner or special deputy medical examiner in the event of any natural disaster, mass casualty, or other emergency situation. Such special deputy coroners or medical examiners shall be the coroner or medical examiner or deputy coroner or medical examiner of any other county in the state who is willing to serve under this section. Any special deputy coroner or medical examiner appointed under this section shall be directly supervised by the coroner or medical examiner making the appointment, and shall not receive any compensation for services rendered, but shall be reimbursed for all actual and necessary expenses incurred in the performance of official duties under this section. Such expenses shall be paid upon the receipt of an itemized record of such expenses approved by the coroner or medical examiner making the appointment.

2. The coroner or medical examiner making the appointment shall keep accurate records of all persons appointed under this section, and such records shall include the full name, address, date of birth, date of appointment, and date released from the appointment of the special deputy coroner or medical examiner appointed under this section. The coroner or medical examiner making an appointment under this section shall file such records with the county clerk in such coroner or medical examiner's county.

Approved June 29, 2006

HB 1234 [HB 1234]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Revises the Nursing Student Repayment Loan Program by changing the definition of "eligible student" and allows the financial assistance to be forgiven upon completion of a nursing degree program

AN ACT to repeal sections 335.212 and 335.233, RSMo, and to enact in lieu thereof two new sections relating to the nursing student loan program.

SECTION

- A. Enacting clause.
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335.212. Definitions.

335.233. Schedule for repayment of loan — interest, amount.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 335.212 and 335.233, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 335.212 and 335.233, to read as follows:

335.212. DEFINITIONS. — As used in sections 335.212 to 335.242, the following terms mean:

- (1) "Board", the Missouri state board of nursing;
- (2) "Department", the Missouri department of health and senior services;
- (3) "Director", director of the Missouri department of health and senior services;
- (4) "Eligible student", a resident who has [made application to be] **been accepted** as a full-time student in a formal course of instruction leading to an associate degree, a diploma, a bachelor of science, or a master of science in nursing or leading to the completion of educational requirements for a licensed practical nurse;
- (5) "Participating school", an institution within this state which is approved by the board for participation in the professional and practical nursing student loan program established by sections 335.212 to 335.242, having a nursing department and offering a course of instruction based on nursing theory and clinical nursing experience;
- (6) "Qualified applicant", an eligible student approved by the board for participation in the professional and practical nursing student loan program established by sections 335.212 to 335.242;
- (7) "Qualified employment", employment on a full-time basis in Missouri in a position requiring licensure as a licensed practical nurse or registered professional nurse in any hospital as defined in section 197.020, RSMo, or public or nonprofit agency, institution, or organization located in an area of need as determined by the department of health and senior services. Any forgiveness of such principal and interest for any qualified applicant engaged in qualified employment on a less than full-time basis may be prorated to reflect the amounts provided in this section;
- (8) "Resident", any person who has lived in this state for one or more years for any purpose other than the attending of an educational institution located within this state.

335.233. SCHEDULE FOR REPAYMENT OF LOAN — INTEREST, AMOUNT. — The department shall establish schedules for repayment of the principal and interest on any financial assistance made under the provisions of sections 335.212 to 335.242. Interest at the rate of nine and one-half percent per annum shall be charged on all financial assistance made under the provisions of sections 335.212 to 335.242, but [twenty-five percent of] the interest and principal of the total financial assistance granted to a qualified applicant at the time of the successful completion of a nursing degree, diploma program or a practical nursing program shall be forgiven [for each year of] **through** qualified employment.

Approved July 10, 2006

HB 1245 [HB 1245]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Allows school nurses to keep on hand and administer prefilled syringes of epinephrine to any student who the nurse believes is having an anaphylactic reaction

AN ACT to amend chapter 167, RSMo, by adding thereto one new section relating to school nurses.

SECTION

A. Enacting clause.

167.630. Epinephrine prefilled auto syringes, school nurse authorized to maintain adequate supply — administration authorized, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 167, RSMo, is amended by adding thereto one new section, to be known as section 167.630, to read as follows:

167.630. EPINEPHRINE PREFILLED AUTO SYRINGES, SCHOOL NURSE AUTHORIZED TO MAINTAIN ADEQUATE SUPPLY — ADMINISTRATION AUTHORIZED, WHEN. — 1. Each school board may authorize a school nurse licensed under chapter 335, RSMo, who is employed by the school district and for whom the board is responsible for to maintain an adequate supply of prefilled auto syringes of epinephrine with fifteen hundredths milligram or three-tenths milligram delivery at the school. The nurse shall recommend to the school board the number of prefilled epinephrine auto syringes that the school should maintain.

2. To obtain prefilled epinephrine auto syringes for a school district, a prescription written by a licensed physician, a physician's assistant, or nurse practitioner is required. For such prescriptions, the school district shall be designated as the patient, the nurse's name shall be required, and the prescription shall be filled at a licensed pharmacy.

3. A school nurse shall have the discretion to use an epinephrine auto syringe on any student the school nurse believes is having a life threatening anaphylactic reaction based on the nurse's training in recognizing an acute episode of an anaphylactic reaction.

Approved July 12, 2006

HB 1256 [HCS HB 1256]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Establishes February 4 as "Rosa Parks Day" and makes it a state observance

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to the designation of Rosa Parks Day in Missouri.

SECTION

A. Enacting clause.

9.163. Rosa Parks Day to be proclaimed annually on February fourth.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 9, RSMo, is amended by adding thereto one new section, to be known as section 9.163, to read as follows:

9.163. ROSA PARKS DAY TO BE PROCLAIMED ANNUALLY ON FEBRUARY FOURTH. — The governor shall issue annually a proclamation setting apart the fourth day of February as "Rosa Parks Day" and recommending to the people of the state that the day be appropriately observed in honor of and out of respect for Rosa Parks, an African American woman who refused to give up her bus seat to a white man, an act of defiance that opened a decisive chapter in the civil rights movement in the United States.

Approved June 29, 2006

HB 1270 [CCS SCS HCS HB 1270 & 1027]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Requires all gasoline sold in Missouri after January 1, 2008, to be an ethanol-blend containing at least 10% fuel ethanol

AN ACT to repeal section 142.031, RSMo, and to enact in lieu thereof two new sections relating to ethanol blend fuel.

SECTION

- A. Enacting clause.
- 142.031. Missouri qualified biodiesel producer fund created — eligibility for grants — rulemaking authority — expiration date.
- 414.255. Definitions — ethanol-blended gasoline required, when — exemptions — rulemaking authority.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 142.031, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 142.031 and 414.255, to read as follows:

142.031. MISSOURI QUALIFIED BIODIESEL PRODUCER FUND CREATED — ELIGIBILITY FOR GRANTS — RULEMAKING AUTHORITY — EXPIRATION DATE. — 1. As used in this section the following terms shall mean:

(1) "Biodiesel", fuel as defined in ASTM Standard D-6751 or its subsequent standard specifications for biodiesel fuel (B100) blend stock for distillate fuels;

(2) "**Missouri** Qualified biodiesel producer", a facility that produces biodiesel, is registered with the United States Environmental Protection Agency according to the requirements of 40 CFR 79, and:

(a) **Is** at least fifty-one percent [is] owned by agricultural producers **who are residents of this state and who are** actively engaged in agricultural production for commercial purposes; **or**

(b) **At least eighty percent of the feedstock used by the facility originates in the state of Missouri. For purposes of this section, "feedstock" means a Missouri agricultural product as defined in section 348.400, RSMo.**

2. The "Missouri Qualified Biodiesel Producer Incentive Fund" is hereby created and subject to appropriations shall be used to provide economic subsidies to Missouri qualified biodiesel producers pursuant to this section. The director of the department of agriculture shall administer the fund pursuant to this section.

3. A Missouri qualified biodiesel producer shall be eligible for a monthly grant from the fund provided that [fifty-one percent of the feedstock originates in the state of Missouri and that]

one hundred percent of the feedstock originates in the United States. **However, the director may waive the feedstock requirements on a month-to-month basis if the facility provides verification that adequate feedstock is not available.** A Missouri qualified biodiesel producer shall only be eligible for the grant for a total of sixty months unless such producers during the sixty months fail, due to a lack of appropriations, to receive the full amount from the fund for which the producers were eligible, in which case such producers shall continue to be eligible for up to twenty-four additional months or until they have received the maximum amount of funding for which such producers were eligible during the original sixty-month time period. The amount of the grant is determined by calculating the estimated gallons of qualified biodiesel produced during the preceding month from Missouri agricultural products, as certified by the department of agriculture, and applying such figure to the per-gallon incentive credit established in this subsection. Each Missouri qualified biodiesel producer shall be eligible for a total grant in any fiscal year equal to thirty cents per gallon for the first fifteen million gallons of qualified biodiesel produced from Missouri agricultural products in the fiscal year plus ten cents per gallon for the next fifteen million gallons of qualified biodiesel produced from Missouri agricultural products in the fiscal year. All such qualified biodiesel produced by a Missouri qualified biodiesel producer in excess of thirty million gallons shall not be applied to the computation of a grant pursuant to this subsection. The department of agriculture shall pay all grants for a particular month by the fifteenth day after receipt and approval of the application described in subsection 4 of this section.

4. In order for a Missouri qualified biodiesel producer to obtain a grant from the fund, an application for such funds shall be received no later than fifteen days following the last day of the month for which the grant is sought. The application shall include:

- (1) The location of the Missouri qualified biodiesel producer;
- (2) The average number of citizens of Missouri employed by the Missouri qualified biodiesel producer in the preceding month, if applicable;
- (3) The number of bushel equivalents of Missouri agricultural commodities used by the Missouri qualified biodiesel producer in the production of biodiesel in the preceding month;
- (4) The number of gallons of qualified biodiesel the producer manufactures during the month for which the grant is applied;
- (5) A copy of the qualified biodiesel producer license required pursuant to subsection 5 of this section, name and address of surety company, and amount of bond to be posted pursuant to subsection 5 of this section; and
- (6) Any other information deemed necessary by the department of agriculture to adequately ensure that such grants shall be made only to Missouri qualified biodiesel producers.

5. The director of the department of agriculture, in consultation with the department of revenue, shall promulgate rules and regulations necessary for the administration of the provisions of this section.

6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

7. This section shall expire on December 31, 2009. However, Missouri qualified biodiesel producers receiving any grants awarded prior to December 31, 2009, shall continue to be eligible for the remainder of the original sixty-month time period under the same terms and conditions of this section unless such producer during such sixty months failed, due to a lack of appropriations, to receive the full amount from the fund for which he or she was eligible. In such case, such producers shall continue to be eligible for up to

twenty-four additional months or until they have received the maximum amount of funding for which they were eligible during the original sixty-month time period.

414.255. DEFINITIONS — ETHANOL-BLENDED GASOLINE REQUIRED, WHEN — EXEMPTIONS — RULEMAKING AUTHORITY. — 1. This section shall be known and may be cited as the "Missouri Renewable Fuel Standard Act".

2. For purposes of this section, the following terms shall mean:

(1) "Aviation fuel", any motor fuel specifically compounded for use in reciprocating aircraft engines;

(2) "Distributor", a person who either produces, refines, blends, compounds or manufactures motor fuel, imports motor fuel into a state or exports motor fuel out of a state, or who is engaged in distribution of motor fuel;

(3) "Fuel ethanol-blended gasoline", a mixture of ninety percent gasoline and ten percent fuel ethanol in which the fuel ethanol meets ASTM International Specification D 4806, as amended. The ten percent fuel ethanol portion may be derived from any agricultural source;

(4) "Position holder", the person who holds the inventory position in motor fuel in a terminal, as reflected on the records of the terminal operator. A person holds the inventory position in motor fuel when that person has a contract with the terminal operator for the use of storage facilities and terminating services for motor fuel at the terminal. The term includes a terminal operator who owns motor fuel in the terminal;

(5) "Premium gasoline", gasoline with an antiknock index number of ninety-one or greater;

(6) "Price", the cost of the fuel ethanol plus fuel taxes and transportation expenses less tax credits, if any; or the cost of the fuel ethanol-blended gasoline plus fuel taxes and transportation expenses less tax credits, if any; or the cost of the unblended gasoline plus fuel taxes and transportation expenses less tax credits, if any;

(7) "Qualified terminal", a terminal that has been assigned a terminal control number ("tcn") by the Internal Revenue Service;

(8) "Supplier", a person that is:

(a) Registered or required to be registered pursuant to 26 U.S.C., Section 4101, for transactions in motor fuels in the bulk transfer/terminal distribution system; and

(b) One or more of the following:

a. The position holder in a terminal or refinery in this state;

b. Imports motor fuel into this state from a foreign country;

c. Acquires motor fuel from a terminal or refinery in this state from a position holder pursuant to either a two-party exchange or a qualified buy-sell arrangement which is treated as an exchange and appears on the records of the terminal operator; or

d. The position holder in a terminal or refinery outside this state with respect to motor fuel which that person imports into this state. A terminal operator shall not be considered a supplier based solely on the fact that the terminal operator handles motor fuel consigned to it within a terminal. "Supplier" also means a person that produces fuel grade alcohol or alcohol-derivative substances in this state, produces fuel grade alcohol or alcohol-derivative substances for import to this state into a terminal, or acquires upon import by truck, rail car or barge into a terminal, fuel grade alcohol or alcohol-derivative substances. "Supplier" includes a permissive supplier unless specifically provided otherwise;

(9) "Terminal", a bulk storage and distribution facility which includes:

(a) For the purposes of motor fuel, is a qualified terminal;

(b) For the purposes of fuel grade alcohol, is supplied by truck, rail car, boat, barge or pipeline and the products are removed at a rack; and

(10) "Unblended gasoline", gasoline that has not been blended with fuel ethanol.

3. Except as otherwise provided under subsections 4 and 5 of this section, on and after January 1, 2008, all gasoline sold or offered for sale in Missouri at retail shall be fuel ethanol-blended gasoline.

4. If a distributor is unable to obtain fuel ethanol or fuel ethanol-blended gasoline from a position holder or supplier at the terminal at the same or lower price as unblended gasoline, then the purchase of unblended gasoline by the distributor and the sale of the unblended gasoline at retail shall not be deemed a violation of this section. The position holder, supplier, distributor, and ultimate vendor shall, upon request, provide the required documentation regarding the sales transaction and price of fuel ethanol, fuel ethanol-blended gasoline, and unblended gasoline to the department of agriculture and the department of revenue. All information obtained by the departments from such sources shall be confidential and not disclosed except by court order or as otherwise provided by law.

5. The following shall be exempt from the provisions of this section:

- (1) Aviation fuel and automotive gasoline used in aircraft;
- (2) Premium gasoline;
- (3) E75-E85 fuel ethanol;
- (4) Any specific exemptions declared by the United States Environmental Protection Agency; and
- (5) Bulk transfers between terminals.

The director of the department of agriculture may by rule exempt or rescind additional gasoline uses from the requirements of this section. The governor may by executive order waive the requirements of this section or any part thereof in part or in whole for all or any portion of this state for reasons related to air quality. Any regional waiver shall be issued and implemented in such a way as to minimize putting any region of the state at a competitive advantage or disadvantage with any other region of the state.

6. The provisions of section 414.152 shall apply for purposes of enforcement of this section.

7. The department of agriculture is hereby authorized to promulgate rules to ensure implementation of, and compliance and consistency with, this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

8. All terminals in Missouri that sell gasoline shall offer for sale, in cooperation with position holders and suppliers, fuel ethanol-blended gasoline, fuel ethanol, and unblended gasoline. Terminals that only offer for sale federal reformulated gasolines, in cooperation with position holders and suppliers, shall not be required to offer for sale unblended gasoline.

9. Notwithstanding any other law to the contrary, all fuel retailers, wholesalers, distributors, and marketers shall be allowed to purchase fuel ethanol from any terminal, position holder, fuel ethanol producer, fuel ethanol wholesaler, or supplier. In the event a court of competent jurisdiction finds that this subsection does not apply to or improperly

impairs existing contractual relationships, then this subsection shall only apply to and impact future contractual relationships.

Approved July 6, 2006

HB 1339 [HCS HB 1339]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding the licensure of real estate brokers

AN ACT to repeal sections 339.010, 339.040, and 339.100, RSMo, and to enact in lieu thereof three new sections relating to real estate brokers.

SECTION

- A. Enacting clause.
- 339.010. Definitions — applicability of chapter.
- 339.040. Licenses granted to whom — examination — qualifications — fee — temporary broker's license, when — renewal, requirements.
- 339.100. Investigation of certain practices, procedure — subpoenas — formal complaints — revocation or suspension of licenses — digest may be published — revocation of licenses for certain offenses.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 339.010, 339.040, and 339.100, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 339.010, 339.040, and 339.100, to read as follows:

339.010. DEFINITIONS — APPLICABILITY OF CHAPTER. — 1. A "real estate broker" is any person, partnership, association, or corporation, foreign or domestic who, for another, and for a compensation or valuable consideration, does, or attempts to do, any or all of the following:

- (1) Sells, exchanges, purchases, rents, or leases real estate;
 - (2) Offers to sell, exchange, purchase, rent or lease real estate;
 - (3) Negotiates or offers or agrees to negotiate the sale, exchange, purchase, rental or leasing of real estate;
 - (4) Lists or offers or agrees to list real estate for sale, lease, rental or exchange;
 - (5) Buys, sells, offers to buy or sell or otherwise deals in options on real estate or improvements thereon;
 - (6) Advertises or holds himself or herself out as a licensed real estate broker while engaged in the business of buying, selling, exchanging, renting, or leasing real estate;
 - (7) Assists or directs in the procuring of prospects, calculated to result in the sale, exchange, leasing or rental of real estate;
 - (8) Assists or directs in the negotiation of any transaction calculated or intended to result in the sale, exchange, leasing or rental of real estate;
 - (9) Engages in the business of charging to an unlicensed person an advance fee in connection with any contract whereby the real estate broker undertakes to promote the sale of that person's real estate through its listing in a publication issued for such purpose intended to be circulated to the general public;
 - (10) Performs any of the foregoing acts as an employee of, or on behalf of, the owner of real estate, or interest therein, or improvements affixed thereon, for compensation.
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2. A "real estate salesperson" is any person who for a compensation or valuable consideration becomes associated, either as an independent contractor or employee, either directly or indirectly, with a real estate broker to do any of the things above mentioned. The provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall not be construed to deny a real estate salesperson who is compensated solely by commission the right to be associated with a broker as an independent contractor.

3. The term "commission" as used in sections 339.010 to 339.180 and sections 339.710 to 339.860 means the Missouri real estate commission.

4. "Real estate" for the purposes of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall mean, and include, leaseholds, as well as any other interest or estate in land, whether corporeal, incorporeal, freehold or nonfreehold, and the real estate is situated in this state.

5. **"Advertising" shall mean any communication, whether oral or written, between a licensee or other entity acting on behalf of one or more licensees and the public; it shall include, but not be limited to, business cards, signs, insignias, letterheads, radio, television, newspaper and magazine ads, Internet advertising, web sites, display or group ads in telephone directories, and billboards.**

6. The provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall not apply to:

(1) Any person, partnership, association, or corporation who as owner, lessor, or lessee shall perform any of the acts described in subsection 1 of this section with reference to property owned or leased by them, or to the regular employees thereof, provided such owner, lessor, or lessee is not engaged in the real estate business;

(2) Any licensed attorney-at-law;

(3) An auctioneer employed by the owner of the property;

(4) Any person acting as receiver, trustee in bankruptcy, administrator, executor, or guardian or while acting under a court order or under the authority of a will, trust instrument or deed of trust or as a witness in any judicial proceeding or other proceeding conducted by the state or any governmental subdivision or agency;

(5) Any person employed or retained to manage real property by, for, or on behalf of, the agent or the owner, of any real estate shall be exempt from holding a license, if the person is limited to one or more of the following activities:

(a) Delivery of a lease application, a lease, or any amendment thereof, to any person;

(b) Receiving a lease application, lease, or amendment thereof, a security deposit, rental payment, or any related payment, for delivery to, and made payable to, a broker or owner;

(c) Showing a rental unit to any person, as long as the employee is acting under the direct instructions of the broker or owner, including the execution of leases or rental agreements;

(d) Conveying information prepared by a broker or owner about a rental unit, a lease, an application for lease, or the status of a security deposit, or the payment of rent, by any person;

(e) Assisting in the performance of brokers' or owners' functions, administrative, clerical or maintenance tasks;

(f) If the person described in this section is employed or retained by, for, or on behalf of a real estate broker, the real estate broker shall be subject to discipline under this chapter for any conduct of the person that violates this chapter or the regulations promulgated thereunder;

(6) Any officer or employee of a federal agency or the state government or any political subdivision thereof performing official duties;

(7) Railroads and other public utilities regulated by the state of Missouri, or their subsidiaries or affiliated corporations, or to the officers or regular employees thereof, unless performance of any of the acts described in subsection 1 of this section is in connection with the sale, purchase, lease or other disposition of real estate or investment therein unrelated to the principal business activity of such railroad or other public utility or affiliated or subsidiary corporation thereof;

(8) Any bank, trust company, savings and loan association, credit union, insurance company, mortgage banker, or farm loan association organized under the laws of this state or of the United States when engaged in the transaction of business on its own behalf and not for others;

(9) Any newspaper, magazine, periodical, [or] Internet site [whereby the advertising of real estate is incidental to its operation], **Internet communications**, or [to] any form of communications regulated or licensed by the Federal Communications Commission or any successor agency or commission **whereby the advertising of real estate is incidental to its operation**;

(10) Any developer selling Missouri land owned by the developer;

(11) Any employee acting on behalf of a nonprofit community, or regional economic development association, agency or corporation which has as its principal purpose the general promotion and economic advancement of the community at large, provided that such entity:

(a) Does not offer such property for sale, lease, rental or exchange on behalf of another person or entity;

(b) Does not list or offer or agree to list such property for sale, lease, rental or exchange; or

(c) Receives no fee, commission or compensation, either monetary or in kind, that is directly related to sale or disposal of such properties. An economic developer's normal annual compensation shall be excluded from consideration as commission or compensation related to sale or disposal of such properties; or

(12) Any neighborhood association, as that term is defined in section 441.500, RSMo, that without compensation, either monetary or in kind, provides to prospective purchasers or lessors of property the asking price, location, and contact information regarding properties in and near the association's neighborhood, including any publication of such information in a newsletter, Internet site, or other medium.

339.040. LICENSES GRANTED TO WHOM — EXAMINATION — QUALIFICATIONS — FEE — TEMPORARY BROKER'S LICENSE, WHEN — RENEWAL, REQUIREMENTS. — 1. Licenses shall be granted only to persons who present, and corporations, associations, or partnerships whose officers, associates, or partners present, satisfactory proof to the commission that they:

(1) Are persons of good moral character; and

(2) Bear a good reputation for honesty, integrity, and fair dealing; and

(3) Are competent to transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public.

2. In order to determine an applicant's qualifications to receive a license under sections 339.010 to 339.180 and sections 339.710 to 339.860, the commission shall hold oral or written examinations at such times and places as the commission may determine.

3. Each applicant for a broker or salesperson license shall be at least eighteen years of age and shall pay the broker examination fee or the salesperson examination fee.

4. Each applicant for a broker license shall be required to have satisfactorily completed the salesperson license examination prescribed by the commission. For the purposes of this section only, the commission may permit a person who is not associated with a licensed broker to take the salesperson examination.

5. Each application for a broker license shall include a certificate from the applicant's broker or brokers that the applicant has been actively engaged in the real estate business as a licensed salesperson for at least [one year] **two years** immediately preceding the date of application, [or, in lieu thereof,] **and** shall include a certificate from a school accredited by the commission under the provisions of section 339.045 that the applicant has, within six months prior to the date of application, successfully completed the prescribed broker curriculum or broker correspondence course offered by such school, except that the commission may waive

all or part of the [educational] requirements set forth in this subsection when an applicant presents proof of other educational background or experience acceptable to the commission.

6. Each application for a salesperson license shall include a certificate from a school accredited by the commission under the provisions of section 339.045 that the applicant has, within six months prior to the date of application, successfully completed the prescribed salesperson curriculum or salesperson correspondence course offered by such school, except that the commission may waive all or part of the educational requirements set forth in this subsection when an applicant presents proof of other educational background or experience acceptable to the commission.

7. The commission may issue a temporary work permit pending final review and printing of the license to an applicant who appears to have satisfied the requirements for licenses. The commission may, at its discretion, withdraw the work permit at any time.

8. Every active broker, salesperson, officer, partner, or associate shall provide upon request to the commission evidence that during the two years preceding he or she has completed twelve hours of real estate instruction in courses approved by the commission. The commission may, by rule and regulation, provide for individual waiver of this requirement.

9. Each entity that provides continuing education required under the provisions of subsection 8 of this section may make available instruction courses that the entity conducts through means of distance delivery. The commission shall by rule set standards for such courses. The commission may by regulation require the individual completing such distance-delivered course to complete an examination on the contents of the course. Such examination shall be designed to ensure that the licensee displays adequate knowledge of the subject matter of the course, and shall be designed by the entity producing the course and approved by the commission.

10. In the event of the death or incapacity of a licensed broker, or of one or more of the licensed partners, officers, or associates of a real estate partnership, corporation, or association whereby the affairs of the broker, partnership, or corporation cannot be carried on, the commission may issue, without examination or fee, to the legal representative or representatives of the deceased or incapacitated individual, or to another individual approved by the commission, a temporary broker license which shall authorize such individual to continue for a period to be designated by the commission to transact business for the sole purpose of winding up the affairs of the broker, partnership or corporation under the supervision of the commission.

339.100. INVESTIGATION OF CERTAIN PRACTICES, PROCEDURE — SUBPOENAS — FORMAL COMPLAINTS — REVOCATION OR SUSPENSION OF LICENSES — DIGEST MAY BE PUBLISHED — REVOCATION OF LICENSES FOR CERTAIN OFFENSES. — 1. The commission may, upon its own motion, and shall upon receipt of a written complaint filed by any person, investigate any real estate-related activity of a licensee licensed under sections 339.010 to 339.180 and sections 339.710 to 339.860 or an individual or entity acting as or representing themselves as a real estate licensee. In conducting such investigation, if the questioned activity or written complaint involves an affiliated licensee, the commission may forward a copy of the information received to the affiliated licensee's designated broker. The commission shall have the power to hold an investigatory hearing to determine whether there is a probability of a violation of sections 339.010 to 339.180 and sections 339.710 to 339.860. The commission shall have the power to issue a subpoena to compel the production of records and papers bearing on the complaint. The commission shall have the power to issue a subpoena and to compel any person in this state to come before the commission to offer testimony or any material specified in the subpoena. Subpoenas and subpoenas duces tecum issued pursuant to this section shall be served in the same manner as subpoenas in a criminal case. The fees and mileage of witnesses shall be the same as that allowed in the circuit court in civil cases.

2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by the provisions of chapter 621, RSMo, against any person or entity

licensed under this chapter or any licensee who has failed to renew or has surrendered his or her individual or entity license for any one or any combination of the following acts:

(1) Failure to maintain and deposit in a special account, separate and apart from his or her personal or other business accounts, all moneys belonging to others entrusted to him or her while acting as a real estate broker or as the temporary custodian of the funds of others, until the transaction involved is consummated or terminated, unless all parties having an interest in the funds have agreed otherwise in writing;

(2) Making substantial misrepresentations or false promises or suppression, concealment or omission of material facts in the conduct of his or her business or pursuing a flagrant and continued course of misrepresentation through agents, salespersons, advertising or otherwise in any transaction;

(3) Failing within a reasonable time to account for or to remit any moneys, valuable documents or other property, coming into his or her possession, which belongs to others;

(4) Representing to any lender, guaranteeing agency, or any other interested party, either verbally or through the preparation of false documents, an amount in excess of the true and actual sale price of the real estate or terms differing from those actually agreed upon;

(5) Failure to timely deliver a duplicate original of any and all instruments to any party or parties executing the same where the instruments have been prepared by the licensee or under his or her supervision or are within his or her control, including, but not limited to, the instruments relating to the employment of the licensee or to any matter pertaining to the consummation of a lease, listing agreement or the purchase, sale, exchange or lease of property, or any type of real estate transaction in which he or she may participate as a licensee;

(6) Acting for more than one party in a transaction without the knowledge of all parties for whom he or she acts, or accepting a commission or valuable consideration for services from more than one party in a real estate transaction without the knowledge of all parties to the transaction;

(7) Paying a commission or valuable consideration to any person for acts or services performed in violation of sections 339.010 to 339.180 and sections 339.710 to 339.860;

(8) Guaranteeing or having authorized or permitted any licensee to guarantee future profits which may result from the resale of real property;

(9) Having been finally adjudicated and been found guilty of the violation of any state or federal statute which governs the sale or rental of real property or the conduct of the real estate business as defined in subsection 1 of section 339.010;

(10) Obtaining a certificate or registration of authority, permit or license for himself or herself or anyone else by false or fraudulent representation, fraud or deceit;

(11) Representing a real estate broker other than the broker with whom associated without the express written consent of the broker with whom associated;

(12) Accepting a commission or valuable consideration for the performance of any of the acts referred to in section 339.010 from any person except the broker with whom associated at the time the commission or valuable consideration was earned;

(13) Using prizes, money, gifts or other valuable consideration as inducement to secure customers or clients to purchase, lease, sell or list property when the awarding of such prizes, money, gifts or other valuable consideration is conditioned upon the purchase, lease, sale or listing; or soliciting, selling or offering for sale real property by offering free lots, or conducting lotteries or contests, or offering prizes for the purpose of influencing a purchaser or prospective purchaser of real property;

(14) Placing a sign on or advertising any property offering it for sale or rent without the written consent of the owner or his or her duly authorized agent;

(15) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of sections 339.010 to 339.180 and sections 339.710 to 339.860, or of any lawful rule adopted pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860;

(16) Committing any act which would otherwise be grounds for the commission to refuse to issue a license under section 339.040;

(17) Failure to timely inform seller of all written offers unless otherwise instructed in writing by the seller;

(18) Been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of this state or any other state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(19) Any other conduct which constitutes untrustworthy, improper or fraudulent business dealings, demonstrates bad faith or incompetence, misconduct, or gross negligence;

(20) Disciplinary action against the holder of a license or other right to practice any profession regulated under sections 339.010 to 339.180 and sections 339.710 to 339.860 granted by another state, territory, federal agency, or country upon grounds for which revocation, suspension, or probation is authorized in this state;

(21) Been found by a court of competent jurisdiction of having used any controlled substance, as defined in chapter 195, RSMo, to the extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by sections 339.010 to 339.180 and sections 339.710 to 339.860;

(22) Been finally adjudged insane or incompetent by a court of competent jurisdiction;

(23) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated under sections 339.010 to 339.180 and sections 339.710 to 339.860 who is not registered and currently eligible to practice under sections 339.010 to 339.180 and sections 339.710 to 339.860;

(24) Use of any advertisement or solicitation which is knowingly false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed.

3. After the filing of such complaint, the proceedings will be conducted in accordance with the provisions of law relating to the administrative hearing commission. A finding of the administrative hearing commissioner that the licensee has performed or attempted to perform one or more of the foregoing acts shall be grounds for the suspension or revocation of his license by the commission, or the placing of the licensee on probation on such terms and conditions as the real estate commission shall deem appropriate.

4. The commission may prepare a digest of the decisions of the administrative hearing commission which concern complaints against licensed brokers or salespersons and cause such digests to be mailed to all licensees periodically. Such digests may also contain reports as to new or changed rules adopted by the commission and other information of significance to licensees.

5. Notwithstanding other provisions of this section, a broker or salesperson's license shall be revoked, or in the case of an applicant, shall not be issued, if the licensee or applicant has pleaded guilty **to, entered a plea of nolo contendere,** to or been found guilty of any of the following offenses or offenses of a similar nature established under the laws of this, any other state, the United States, or any other country, notwithstanding whether sentence is imposed:

(1) Any dangerous felony as defined under section 556.061, RSMo, or murder in the first degree;

(2) Any of the following sexual offenses: rape, statutory rape in the first degree, statutory rape in the second degree, sexual assault, forcible sodomy, statutory sodomy in the first degree, statutory sodomy in the second degree, child molestation in the first degree, child molestation in the second degree, deviate sexual assault, sexual misconduct involving a child, sexual misconduct in the first degree, sexual abuse, enticement of a child, or attempting to entice a child;

(3) Any of the following offenses against the family and related offenses: incest, abandonment of a child in the first degree, abandonment of a child in the second degree,

endangering the welfare of a child in the first degree, abuse of a child, using a child in a sexual performance, promoting sexual performance by a child, or trafficking in children; and

(4) Any of the following offenses involving child pornography and related offenses: promoting obscenity in the first degree, promoting obscenity in the second degree when the penalty is enhanced to a class D felony, promoting child pornography in the first degree, promoting child pornography in the second degree, possession of child pornography in the first degree, possession of child pornography in the second degree, furnishing child pornography to a minor, furnishing pornographic materials to minors, or coercing acceptance of obscene material.

6. A person whose license was revoked under subsection 5 of this section may appeal such revocation to the **administrative hearing** commission. Notice of such appeal must be received by the administrative hearing commission within ninety days of **mailing, by certified mail, the** notice of revocation. Failure of a person whose license was revoked to notify the **administrative hearing** commission of his or her intent to appeal waives all rights to appeal the revocation. Upon notice of such person's intent to appeal, a hearing shall be held before the administrative hearing commissioner.

Approved July 10, 2006

HB 1343 [HCS HB 1343]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Repeals the requirement that the City of Canton provide the resources and space for a circuit court in Lewis County

AN ACT to repeal sections 478.337, 478.340, 478.343, 478.347, 478.350, and 478.353, RSMo, relating to provision of local circuit court facilities at Canton in Lewis County, with an effective date.

SECTION

- A. Enacting clause.
- 478.337. Circuit court of Lewis County at Canton.
- 478.340. Jurisdiction.
- 478.343. Change of venue.
- 478.347. Removal of suits by consent of parties.
- 478.350. Judgments to become lien, when.
- 478.353. Liens filed, where.
- B. Effective date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 478.337, 478.340, 478.343, 478.347, 478.350, and 478.353, RSMo, are repealed.

[478.337. CIRCUIT COURT OF LEWIS COUNTY AT CANTON. — Regular sessions of the circuit court of Lewis County shall be held in the city of Canton in said county, in a building to be provided by the city council of said city, which shall be known and designated as the "Courthouse at Canton", and said city council is hereby given power and authority to appropriate money necessary to provide and prepare such building with a room for said court, and office for the clerk of said court, and for jury rooms, and also records, fuel and such incidental expenses

for said court and clerk, all of which shall be provided by said town free of expense to said county.]

[478.340. JURISDICTION. — The circuit court at Canton shall have jurisdiction as follows:

(1) Original and concurrent jurisdiction in all civil cases, either in law or equity, arising in all that part of Lewis County lying east of the range line between ranges six and seven, except that cases which are within the probate jurisdiction and cases of a type which an associate circuit judge may hear without special assignment shall be filed, heard and determined at the county seat;

(2) Original and concurrent jurisdiction in all felony cases arising in all the said before mentioned and described territory, except that proceedings prior to the filing of an information or indictment shall be at the county seat.]

[478.343. CHANGE OF VENUE. — Changes of venue may be had and taken to and from said court, and all cases taken by change of venue from any other county to the circuit court of Lewis County may be transferred and certified into the circuit court, either at the town of Canton or at the county seat, unless one of said courts be designated in the order of removal; in which case said cause shall be certified into the court so designated in the order granting the change of venue; and changes of venue may be awarded in said circuit court at Canton to any other county for the same cause and upon like conditions as are now or may be provided by law for changes of venue in the circuit courts of this state.]

[478.347. REMOVAL OF SUITS BY CONSENT OF PARTIES. — The parties to any suit or proceeding pending in the circuit court of Lewis County may, by agreement in writing, signed by the said parties or their counsel, and filed therein, remove the same from the circuit court at the town of Canton to the circuit court at the county seat or from the circuit court at the county seat to the circuit court at the town of Canton, or the judge of the circuit court of said Lewis County, upon the application of either party, may for good cause shown by affidavit or otherwise, remove any cause as aforesaid from the circuit court at Canton to the circuit court at the county seat or from the circuit court at the county seat to the circuit court at Canton, and in all such cases the judge of said court shall order the original papers transferred, together with a copy of the record entries theretofore made in the cause, and the cause so transferred and removed shall be proceeded with in every respect as in change of venue cases from one county to another.]

[478.350. JUDGMENTS TO BECOME LIEN, WHEN. — All judgments, orders and decrees of said court shall be a lien upon real estate to the same extent, and shall have like force and effect in every part of said county as similar judgments, orders, decrees and process of the circuit court of said Lewis County, held at the county seat of said county, and all real estate taken in execution by the sheriff of Lewis County under judgments rendered by said circuit court at Canton on real estate situated in said county and sold in pursuance of the judgment, order or decree thereof, shall be exposed to sale at the door of the courthouse in the town of Canton in the same time and manner as is or may be regulated by law; provided, that the lien of such judgment, order or decree shall not take effect or be in force in that part of said county, west of the range line between said ranges six and seven, until an abstract of same shall be filed in the office of the clerk of the circuit court at the county seat, but when so filed, such abstract shall be notice to all persons of such judgment, order or decree.]

[478.353. LIENS FILED, WHERE. — All liens provided by law in favor of mechanics and others on buildings, erections or improvements upon land situated in Lewis County, east of the range line between ranges six and seven, and all equitable liens and notices thereof affecting lands therein, and all liens as provided by law for contractors, materialmen and laborers against

railroads within said territory, and all papers, notices and process necessary to be filed or taken in the circuit court to obtain, maintain and complete a lien of any kind authorized by law upon real estate situated east of said range line between ranges six and seven in said county, or upon any personal property, debts, credits, bonds, notes, assets or effects whatsoever, shall be filed and taken in the circuit court at the town of Canton; and all suits and process for the enforcement thereof, shall be brought in said court where filed.]

SECTION B. EFFECTIVE DATE. — The repeal of sections 478.337, 478.340, 478.343, 478.347, 478.350, and 478.353 shall become effective on December 31, 2006.

Approved June 9, 2006

HB 1344 [HCS HB 1344]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Expands the investment options of the Firemen's Retirement System of St. Louis

AN ACT to repeal section 87.260, RSMo, and to enact in lieu thereof one new section relating to the firefighter's retirement and relief system, with an emergency clause.

SECTION

- A. Enacting clause.
- 87.260. Board of trustees shall have exclusive authority to invest and reinvest funds in property.
- B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 87.260, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 87.260, to read as follows:

87.260. BOARD OF TRUSTEES SHALL HAVE EXCLUSIVE AUTHORITY TO INVEST AND REINVEST FUNDS IN PROPERTY. — [Notwithstanding any other provisions of law to the contrary, the board of trustees shall be the trustees of the several funds created by sections 87.120 to 87.370 and shall have full power to invest and reinvest the funds in

- (1) Bonds of the United States government, general obligation bonds of the state of Missouri and of any political subdivision of Missouri, including school districts;
- (2) Savings and loan associations;
- (3) Corporate bonds;
- (4) Common and preferred stocks of corporations;
- (5) Investment trust shares;
- (6) Real estate mortgages only in Missouri; and
- (7) Commercial banks and trust companies.

No trustee or member of the retirement system shall have any direct interest in the gains or profits made by the retirement board on any investment, nor, as such, shall receive any compensation for his service.] **The board of trustees of the firefighter's retirement system shall have the exclusive authority and discretion to invest and reinvest the funds in property of any kind, real or personal. The board of trustees shall invest and manage the fund as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the firefighter's retirement system. In satisfying**

this standard, the board of trustees shall exercise reasonable care, skill, and caution. No trustee shall have any interest as a trustee in the gains or profits made on any investment, except benefits from interest in investments common to all members of the plan, if entitled thereto.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to expand investment opportunities to the firefighter's retirement system, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved June 12, 2006

HB 1380 [SCS HCS HB 1380]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Establishes the Missouri Public-Private Partnerships Transportation Act to allow a private partner to finance, develop, and/or operate a toll bridge between Illinois and Missouri in St. Louis

AN ACT to amend chapter 227, RSMo, by adding thereto twenty-four new sections relating to the Missouri public-private partnerships transportation act, with penalty provisions.

SECTION

- A. Enacting clause.
- 227.600. Citation of law — definitions.
- 227.603. Legislative findings — construction.
- 227.606. Requests for approval, contents — fee.
- 227.609. Procurement process — notice — responsive bids, processing fee prohibited.
- 227.612. Process for receiving and reviewing requests, requirements — policy prohibiting agreements with sponsors of terrorism.
- 227.615. Approval of projects.
- 227.618. Tentative approval, criteria — interim agreements, requirements.
- 227.621. Approval of comprehensive agreements, requirements.
- 227.624. Terminating negotiations, rejecting requests and responses.
- 227.627. Closed records, when, open records, when.
- 227.630. Powers of private partners.
- 227.633. Private partner to provide financial information — bond may be required.
- 227.636. Powers of the commission.
- 227.639. User fees.
- 227.642. Additional powers of commission, assistance, contracts — loans to private partners.
- 227.645. Financing terms and conditions — private partner may issue bonds, requirements — contract to issue bonds and loan proceeds.
- 227.648. Agreements authorizing private partner regarding procurement.
- 227.651. Private partner to provide plan, contents.
- 227.654. Right-of-way or easement authorized.
- 227.657. Condemnation authorized — requirements — surveying, damages to private property.
- 227.660. Collection of user fees — notice of tolls — penalty — admissibility of reports and telephone calls — toll collection and traffic citation procedures.
- 227.663. Limitation of liability.
- 227.666. Notice of material default and opportunity to cure — remedies.
- 227.669. Annual status report.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 227, RSMo, is amended by adding thereto twenty-four new sections, to be known as sections 227.600, 227.603, 227.606, 227.609, 227.612, 227.615, 227.618, 227.621, 227.624, 227.627, 227.630, 227.633, 227.636, 227.639, 227.642, 227.645, 227.648, 227.651, 227.654, 227.657, 227.660, 227.663, 227.666, and 227.669, to read as follows:

227.600. CITATION OF LAW — DEFINITIONS. — 1. Sections 227.600 to 227.669 shall be known and may be cited as the "Missouri Public-Private Partnerships Transportation Act".

2. As used in sections 227.600 to 227.669, unless the context clearly requires otherwise, the following terms mean:

- (1) "Commission", the Missouri highways and transportation commission;
- (2) "Comprehensive agreement", the final binding written comprehensive project agreement between a private partner and the commission required in section 227.621 to finance, develop, and/or operate the project;
- (3) "Department", the Missouri department of transportation;
- (4) "Develop" or "development", to plan, locate, relocate, establish, acquire, lease, design, or construct;
- (5) "Finance", to fund the costs, expenses, liabilities, fees, profits, and all other charges incurred to finance, develop, and/or operate the project;
- (6) "Interim agreement", a preliminary binding written agreement between a private partner and the commission that provides for completion of studies and any other activities to advance the financing, development, and/or operation of the project required by section 227.618;
- (7) "Material default", any uncured default by a private partner in the performance of its duties that jeopardizes adequate service to the public from the project as determined by the commission;
- (8) "Operate" or "operation", to improve, maintain, equip, modify, repair, administer, or collect user fees;
- (9) "Private partner", any natural person, corporation, partnership, limited liability company, joint venture, business trust, nonprofit entity, other business entity, or any combination thereof;
- (10) "Project", a bridge to be owned by the commission and the Illinois department of transportation or any other suitable public body of the state of Illinois, which is located across the boundaries of the state of Illinois and the state of Missouri in a city not within a county to be financed, developed, and/or operated under agreement between the commission, a private partner, the Illinois department of transportation, and, if appropriate, any other suitable public body of the state of Illinois;
- (11) "Public use", a finding by the commission that the project to be financed, developed, and/or operated by a private partner under sections 227.600 to 227.669 will improve or is needed as a necessary addition to the state highway system;
- (12) "Revenues", include but are not limited to the following which arise out of or in connection with the financing, development, and/or operation of the project:
 - (a) Income;
 - (b) Earnings;
 - (c) Proceeds;
 - (d) User fees;
 - (e) Lease payments;
 - (f) Allocations;
 - (g) Federal, state, and local moneys; or
 - (h) Private sector moneys, grants, bond proceeds, and/or equity investments;
- (13) "State", the state of Missouri;

(14) "State highway system", the state system of highways and bridges planned, located, relocated, established, acquired, constructed, and maintained by the commission under section 30(b), article IV, Constitution of Missouri;

(15) "User fees", tolls, fees, or other charges authorized to be imposed by the commission and collected by the private partner for the use of all or a portion of a project under a comprehensive agreement.

227.603. LEGISLATIVE FINDINGS — CONSTRUCTION. — 1. The general assembly finds that:

(1) The present and prospective traffic congestion in the designated region of the project and the limited availability of state moneys require such project for the public safety, health, and welfare; and

(2) Sections 227.600 to 227.669 will encourage private sector innovation and investment in the state to accomplish the project that would not otherwise be undertaken, thereby serving the public safety, health, and welfare.

2. Sections 227.600 to 227.669 shall be liberally construed to accomplish the legislative findings and purposes set forth in this section.

227.606. REQUESTS FOR APPROVAL, CONTENTS — FEE. — 1. Any potential private partner may submit a request for approval to the commission to finance, develop, and/or operate a project. The commission may request such additional information and material in a form and manner determined by the commission.

2. The commission may charge a reasonable fee to cover the costs of processing, reviewing, and evaluating a request for approval submitted by a potential private partner.

227.609. PROCUREMENT PROCESS — NOTICE — RESPONSIVE BIDS, PROCESSING FEE PROHIBITED. — 1. The commission shall use a competitive procurement process to form a public-private partnership under sections 227.600 to 227.669 and may proceed with a project under sections 227.600 to 227.669 only if the commission issues a request for proposals for the financing, development, and/or operation of the project on the commission's own initiative or in response to a request for approval submitted by a potential private partner under section 227.606.

2. The commission shall publish a public notice of the commission's request for proposals, including any deadline for submission of such proposals. The notice shall be published once a week for two consecutive weeks in:

(1) A newspaper of general circulation in the city where the proposed project is located;

(2) At least one construction industry trade publication that is nationally distributed; and

(3) Such other publications or manner as the commission may determine.

3. The material and information required for submission by a potential private partner to be responsive to the commission's request for proposal shall be set forth in the proposal. Notwithstanding the provisions of subsection 2 of section 227.606, the commission shall not charge a processing and review fee.

227.612. PROCESS FOR RECEIVING AND REVIEWING REQUESTS, REQUIREMENTS — POLICY PROHIBITING AGREEMENTS WITH SPONSORS OF TERRORISM. — 1. The commission shall establish a process for the receipt and review of a request for approval or request for proposal. Such process shall, at a minimum, establish a specific schedule for review by the commission of the request for approval and competing proposals, a process for alteration of such schedule by the commission as the commission deems such changes are necessary

due to the scope or complexity of proposals received and the type and amount of information necessary for adequate review of proposals in each stage of review.

2. To promote and support the objectives of the United States of America's foreign policy regarding terrorism, the commission shall establish, prior to the receipt and review of any request for approval or response to a request for proposal, a policy that prohibits a private partner from being eligible to enter into an interim or comprehensive agreement with the commission to finance, develop and/or operate the project if such private partner, its subsidiaries or affiliated entities, are known to sponsor terrorism or aid the government of countries that are known to sponsor terrorism.

227.615. APPROVAL OF PROJECTS. — The commission may by commission minute approve the project if the commission determines the project will improve and is a needed addition to the state highway system.

227.618. TENTATIVE APPROVAL, CRITERIA — INTERIM AGREEMENTS, REQUIREMENTS. — 1. The commission may by commission minute grant tentative approval of the potential private partner whose request for approval or response to a request for proposal provides the best value to the state for financing, developing, and/or operating the project. The commission shall establish criteria for making a determination including:

(1) The general reputation, qualifications, industry experience, and financial capacity of the potential private partner;

(2) The proposed plans for developing and/or operating the project; and

(3) Other criteria that the commission deems appropriate.

2. Prior to the granting of tentative approval by the commission for a potential private partner to finance, develop, and/or operate a project, the commission may review and approve by commission minute an interim agreement with the private partner. Such interim agreement shall be in a form prescribed by the commission and:

(1) May authorize the potential private partner to commence activities for which it may be compensated relating to the proposed project;

(2) Shall establish the process and timing of the negotiation of the comprehensive agreement between the commission and the private partner; and

(3) Shall contain any other provisions that the commission and the potential partner deems appropriate.

227.621. APPROVAL OF COMPREHENSIVE AGREEMENTS, REQUIREMENTS. — Prior to granting its final approval of a private partner to finance, develop, and/or operate the project, the commission shall review and approve by commission minute a comprehensive agreement in a form and manner prescribed by the commission that shall, at a minimum, provide for:

(1) The start date for construction of the project and any other dates the commission deems necessary to develop and/or operate the project;

(2) Review and approval by the commission of the final plans and specifications for the development and/or operation of the project to ensure that such plans and specifications conform to the standards acceptable to the commission;

(3) A detailed financing plan, contingent upon review and approval by the commission; and

(4) Any other provisions the commission and private partner deem appropriate.

227.624. TERMINATING NEGOTIATIONS, REJECTING REQUESTS AND RESPONSES. — If the commission is not satisfied with the results of negotiations with a potential private partner for an agreement, the commission may terminate negotiations with the potential

private partner. The commission may reject any and all requests for approval and responses to a request for proposals.

227.627. CLOSED RECORDS, WHEN, OPEN RECORDS, WHEN. — All information of any kind submitted by a potential private partner to the commission under a request for approval as provided in section 227.606 or under a response to a request for proposal as provided in section 227.609 shall be a closed record under chapter 610, RSMo; provided that, after the private partner and the commission execute the comprehensive agreement information provided by the private partner, the interim agreement and the comprehensive agreement shall be an open record under chapter 610, RSMo.

227.630. POWERS OF PRIVATE PARTNERS. — The private partner shall have the following powers:

- (1) To contract with a federal agency, a state or its agencies and political subdivisions, the commission, a local or regional transportation authority, a corporation, a partnership, or any person to finance, develop, and/or operate the project;
- (2) To lease or acquire any right to use or finance, develop, and/or operate the project with the length of any term to be established in the comprehensive agreement;
- (3) To collect user fees in connection with the use of the project by the traveling public. The collection and enforcement of such user fees shall be consistent with sections 227.660 and 227.666;
- (4) To borrow money for project purposes at such rates or interest as the private partner may determine; and
- (5) Any other powers delegated to such private partner in the comprehensive agreement with the commission.

227.633. PRIVATE PARTNER TO PROVIDE FINANCIAL INFORMATION — BOND MAY BE REQUIRED. — 1. The private partner shall, in connection with the financing, development, and/or operation of the project, provide the following:

- (1) Security and warranties in the forms and amounts satisfactory to the commission;
- (2) An annual financial statement audited by an independent certified public accountant approved by the commission and such other financial reports and information as required by the commission and in a form acceptable to the commission;
- (3) A summary of any and all compensation from all sources for the project to the private partner;
- (4) Evidence satisfactory to the commission of procurement and maintenance at the private partner's expense of commercial insurance for such purposes and in an amount required by the commission, including but not limited to:
 - (a) Commercial general liability insurance for all damages and losses imposed by law and assumed under the comprehensive agreement. Commercial general liability insurance shall be in coverage and amount consistent with section 227.663 and shall name the state of Missouri for the benefit of the state legal expense fund, and the commission and the commission's members, agents, and employee's as additional insureds. Each commercial general liability insurance policy and commercial automobile liability insurance policy shall also contain a separation of insureds conditions; and
 - (b) Workers' compensation insurance or evidence provided by the private partner that the private partner is qualified by the division of workers' compensation as self-insured and carries insurance for employer's liability sufficient to comply with all obligations under state law relating to workers' compensation and employer's liability.

2. Notwithstanding the provisions of section 107.170, RSMo, and section 227.100 to the contrary, a bid bond shall not be required for the project; except that, the commission

may require the private partner to provide such other bonds in such amounts determined by the commission to be adequate for the protection of the commission and provided by a surety or sureties satisfactory to the commission, including but not limited to:

- (1) A performance bond;
- (2) A payment bond for the protection of all persons supplying labor and material in carrying out the work provided for in the comprehensive agreement for the project. The amount of the payment bond shall equal the total amount payable under the terms of the comprehensive agreement unless the commission determines in writing supported by specific findings that a payment bond in such amount is impractical, in which case the commission shall establish the amount of the payment bond; except that, the amount of the payment bond shall not be less than the amount of the performance bond.

227.636. POWERS OF THE COMMISSION. — The commission may:

- (1) Delegate any of the commission's powers under sections 227.600 to 227.669 to the department to carry out the purposes of sections 227.600 to 227.669;
- (2) Promulgate rules to implement the provisions of sections 227.600 to 227.669. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void; and
- (3) Make all final decisions concerning the performance and the acceptance of the project work, including claims for additional time and compensation.

227.639. USER FEES. — The commission may impose user fees for the project. The comprehensive agreement shall provide the rate of such user fees as may be established by agreement of the commission and the private partner. Such user fees shall be set in an amount that takes into account any lease payments, reasonable costs of financing, development, and/or operation. A rate schedule of the current user fees imposed and collected for use of the project shall be made available by the private partner or the commission to any member of the public upon request. Such fees shall be the same for persons using the project under similar conditions, except as required by agreement between the commission and the private partner to preserve capacity and prevent congestion on the project. The collection and enforcement of such user fees shall be consistent with sections 227.660 and 227.666. The commission may authorize the private partner by the comprehensive agreement to collect and enforce user fees for the project.

227.642. ADDITIONAL POWERS OF COMMISSION, ASSISTANCE, CONTRACTS — LOANS TO PRIVATE PARTNERS. — 1. The commission may take any action to obtain federal, state, or local government or private sector assistance for the project and may enter into any contracts required for such assistance.

2. In the comprehensive agreement, the commission may agree to loan moneys received from any federal, state, or local government or the private sector to the private partner for the development and/or operation of the project from time to time; provided that the commission shall obtain from the private partner such security for any loan made to the private partner in any type or amount as the commission deems necessary.

227.645. FINANCING TERMS AND CONDITIONS — PRIVATE PARTNER MAY ISSUE BONDS, REQUIREMENTS — CONTRACT TO ISSUE BONDS AND LOAN PROCEEDS. — 1. Any financing

of the project may be in such amounts and upon such terms and conditions as may be determined by the commission and the private partner in the interim or comprehensive agreement. The commission and the private partner may use any and all revenues that may be available to them and may, to the fullest extent permitted by applicable law, issue debt, equity, or other securities or obligations.

2. The private partner may issue corporate bonds, private activity bonds, refunding bonds, notes, and other obligations, and may secure any of such obligations by mortgage, pledge, or deed of trust of any or all of the property and income of the private partner. The commission may contract with the private partner to assist in issuing bonds, notes, and other obligations under this subsection. The private partner shall not mortgage, pledge, or give a deed of trust on any real property or interests obtained by eminent domain acquired from the state of Missouri or any agency or political subdivision of the state. Bonds, notes, and other obligations issued under this subsection shall exclusively be the responsibility of the private partner payable solely out of private partner moneys and property and shall not constitute debt or liability of the commission, the state of Missouri, or any other agency or political subdivision of the state. The private partner and the commission shall not be obligated to pay such bonds, notes, or other obligations with any moneys other than those specifically pledged to repayment. Any such bonds, notes, or other obligations issued by the private partner or the commission shall state on the face that they are not obligations of the state of Missouri or any agency or political subdivision of the state. Any private partner bonds issued under this subsection, the interest thereon, and any proceeds from such bonds shall be exempt from taxation by the state of Missouri for all purposes except the state estate tax.

3. The private partner may also contract with the commission for the commission to issue state road bonds for the project and to loan the proceeds thereof to the private partner.

227.648. AGREEMENTS AUTHORIZING PRIVATE PARTNER REGARDING PROCUREMENT. — The commission may by agreement authorize or require a private partner to exercise any of the following provisions regarding procurement for the financing, development, and/or operation of the project:

(1) Use any project delivery method for the efficient development and/or operation of the project. Such project delivery methods shall include but are not limited to project delivery methods established in section 8.285, RSMo, or sections 227.100 and 227.107. In addition, the limitation in subsection 1 of section 227.107 on the number of design-build contracts authorized to be let by the commission shall not apply to the project;

(2) Make available to the commission, upon request, all procurement records for financing, development, and/or operation of the project;

(3) Exempt the project from the general procurement laws in chapter 34, RSMo.

227.651. PRIVATE PARTNER TO PROVIDE PLAN, CONTENTS. — The private partner shall provide the commission a detailed disadvantaged business enterprise participation plan that conforms to commission reporting requirements for the federal disadvantaged business enterprise program under federal law and regulations on federal-aid highway projects. The plan shall also provide information describing the experience of the private partner in meeting disadvantaged business enterprise participation goals, how the private partner will meet the departments disadvantaged business participation goals, and such other qualifications the commission considers to be in the best interest of the state.

227.654. RIGHT-OF-WAY OR EASEMENT AUTHORIZED. — The commission may lease to or for the use of a private partner the project or such right-of-way or other easement in such real estate as the commission deems necessary for the development and/or

operation of the project. Such lease by the commission shall be for such value as determined by the commission. No such lease of any real property interest by the commission under this section shall be deemed to amend or modify the public use restrictions acquired by the commission in such real property.

227.657. CONDEMNATION AUTHORIZED — REQUIREMENTS — SURVEYING, DAMAGES TO PRIVATE PROPERTY. — 1. The commission may condemn lands for the project in the name of the state of Missouri.

2. If condemnation becomes necessary, the commission shall act under chapter 523, RSMo, and may condemn a fee simple or other interest in land. Any amounts to be paid in such condemnation proceeding shall be paid by the private partner under the comprehensive agreement.

3. The private partner may, after prior notice to the owner to enter upon the private property subject to the taking, survey and determine the most advantageous route and design. The private partner shall be liable for all damages to the property resulting from such inspection.

227.660. COLLECTION OF USER FEES — NOTICE OF TOLLS — PENALTY — ADMISSIBILITY OF REPORTS AND TELEPHONE CALLS — TOLL COLLECTION AND TRAFFIC CITATION PROCEDURES. — 1. The private partner may use any method for collecting and enforcing user fees for the use of the project which may include, but are not limited to, toll tickets, barrier toll facilities, billing accounts, commuter passes, and electronic recording or identification devices. The display of a recording or identification device issued or authorized by the private partner for such purposes on or near the windshield of a motor vehicle shall not be a violation of any law or rule in the state of Missouri unless the device is attached in a manner that obstructs the operator's clear view of the project.

2. The private partner operating the project as a toll facility shall post notice on or around such facility in the plain view of operators of motor vehicles using such facility which reads as follows:

"NOTICE: FAILURE TO PAY THE REQUIRED TOLL IS A TRAFFIC VIOLATION. TOLL BOOTH OPERATORS WILL REPORT ANY FAILURE TO PAY REQUIRED TOLLS TO LAW ENFORCEMENT OFFICIALS WHO WILL ISSUE A TRAFFIC CITATION."

3. The owner of a motor vehicle involved in a violation for failure to pay the required toll is guilty of an infraction and upon conviction shall be required to pay the amount of the toll that was the subject of the violation which shall be remitted to the private partner and a fine in an amount not to exceed two hundred dollars.

4. A written report or telephone call from a toll enforcement officer, law enforcement officer, or photo monitoring system evidence that indicates a required toll was not paid is admissible in any proceeding to enforce this section, subject to foundation evidence to establish the authenticity of the report, call, or photographs. Photo monitoring system evidence that shows the motor vehicle, whether operated by the owner or another operator, has failed to pay a toll shall raise a rebuttable presumption that the motor vehicle shown in the photographic evidence was used to commit a violation of this section. If charges are filed against multiple owners of a motor vehicle, only one of the owners shall be convicted and court costs may be assessed against only one of the owners. If the motor vehicle involved in the violation is registered in the name of a rental or leasing company and the vehicle is rented or leased to another person at the time of the violation, the rental or leasing company may rebut the presumption by providing law enforcement or the prosecuting authority with a copy of the rental or lease agreement in effect at the time of the violation. No prosecuting authority shall bring any legal proceeding against a rental or leasing company under this section unless prior written notice of the violation has been

given to such rental or leasing company by registered mail at the address appearing on the motor vehicle's registration and the rental or leasing company has failed to provide the rental or leasing agreement copy within fifteen days of receipt of such notice.

5. The following procedures shall be taken for the enforcement of toll collections and issuance of traffic citations under this section:

(1) Any toll booth operator witnessing a failure to pay a required toll in violation of this section shall report such violation to a law enforcement officer or agency. The report may be in one of the following forms:

(a) A telephone call from a toll enforcement officer to a law enforcement agency indicating a violation and a reasonable description of the motor vehicle violating the toll enforcement provisions of this section, including but not limited to the license plate number, make, model, and color of the motor vehicle;

(b) A certificate or a written report sworn to or affirmed by a toll enforcement officer, agent, private partner, Missouri state highway patrol officer, city police officer, or a sheriff's department deputy which alleges that a violation of this section occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by a photo monitoring system or a photograph from a photo monitoring system shall be prima facie evidence of the facts contained therein, subject to foundation evidence to establish the authenticity of such photographs, microphotographs, videotape, or other recorded images produced by a photo monitoring system, and shall be admissible in any proceeding charging a violation of the toll collection provisions in this section; provided that, any photographs, microphotographs, videotape, or other recorded images evidencing such a violation shall be available for inspection and admission into evidence in any proceeding to adjudicate the liability for such violation;

(2) After a report has been provided to a Missouri law enforcement agency, such agency is authorized to issue a traffic citation for failure to pay the required toll;

(3) The law enforcement agency responsible for the issuance of a traffic citation for failure to pay a toll is responsible for prosecution of such citation.

The provisions of this section shall not prohibit a law enforcement officer from issuing a citation for a violation of any other traffic laws and regulations on the project.

227.663. LIMITATION OF LIABILITY. — 1. As a result of the project being a public use and serving the public safety, health, and welfare, tort liability caps are hereby established in this section and made applicable to any private partner and such private partner's employees, agents, and insureds that develops and/or operates the project under sections 227.600 to 227.669. Such tort liability caps shall be a per person cap and a per occurrence cap and shall be in amounts identical to the tort liability caps established in section 537.610, RSMo, as such caps are annually amended by the Implicit Price Deflator for Personal Consumption Expenditures under subsection 5 of section 537.610, RSMo.

2. Commercial general liability insurance policy or policies purchased by the private partner under sections 227.600 to 227.669 shall not be used to expand the coverage and amount of the tort liability caps imposed in this section.

227.666. NOTICE OF MATERIAL DEFAULT AND OPPORTUNITY TO CURE — REMEDIES. — 1. Prior to exercising any of the remedies under this section, the commission shall provide notice of a material default and the opportunity to cure the default for the benefit of the private partner and any persons specified under the comprehensive agreement as providing financing for the project.

2. Upon the occurrence of and during the continuation of any material default, the commission may exercise any or all of the following remedies:

(1) Make or cause to be made any appropriate claims under the bonds required in section 227.633;

(2) By notice to the private partner by certified mail, terminate the comprehensive agreement and exercise any other rights and remedies which may be available to the commission at law or in equity;

(3) Condemn under chapter 523, RSMo, any real property interest of the private partner in the project. Any person who provides financing for the project, to the extent of such person's capital investment, may participate in the condemnation proceedings with standing of a property owner;

(4) Collect and enforce user fees for the use of the project under section 227.660.

227.669. ANNUAL STATUS REPORT. — The commission shall submit an annual status report to the governor and general assembly following execution of the comprehensive agreement as an individual component of the annual report submitted by the commission to the joint transportation oversight committee in accordance with section 21.795, RSMo. The annual report shall assess the advantages and disadvantages of the public-private partnership method of financing, developing, and/or operating the project.

Approved June 29, 2006

HB 1382 [SCS HCS HB 1382 & 1158]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Removes the one-set limit on special military license plates and allows for a special license plate for members of the Disabled American Veterans and a "SOME GAVE ALL" special license plate

AN ACT to repeal sections 301.445, 301.447, 301.451, 301.456, 301.457, 301.464, 301.465, 301.3054, 301.3085, 301.3090, 301.3116, and 301.4000, RSMo, and to enact in lieu thereof fifteen new sections relating to special license plates for military personnel.

SECTION

- A. Enacting clause.
- 301.445. Combat infantryman special license plates — application — license how marked — proof required — fee.
- 301.447. Pearl Harbor survivor license plates — how marked — application — proof required — transferable when.
- 301.451. Purple heart medal, special license plates.
- 301.456. Silver star, special license plate — application procedure — design — fee.
- 301.457. Vietnam veterans, special license plates — application procedure — fees, restrictions.
- 301.464. Korean War veteran, special license plates.
- 301.465. World War II veteran, special license plates.
- 301.3030. No limit on certain special license plates for qualified persons.
- 301.3054. Honorable discharge from the military special license plates, application, fee.
- 301.3061. Disabled American Veterans special license plate — design, fee — pickup truck plates — rulemaking authority.
- 301.3085. United States Marine Corps, active duty combat, special license plate authorized.
- 301.3090. Operation Enduring Freedom special license plates, application, fee.
- 301.3116. Operation Noble Eagle special license plate, application, fee.
- 301.3141. Some Gave All special license plate — contribution — fee, design — rulemaking authority — exception.
- 301.4000. Military service special license plates for motorcycles, application, fees.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 301.445, 301.447, 301.451, 301.456, 301.457, 301.464, 301.465, 301.3054, 301.3085, 301.3090, 301.3116, and 301.4000, RSMo, are repealed and fifteen new sections enacted in lieu thereof, to be known as sections 301.445, 301.447, 301.451, 301.456, 301.457, 301.464, 301.465, 301.3030, 301.3054, 301.3061, 301.3085, 301.3090, 301.3116, 301.3141, and 301.4000, to read as follows:

301.445. COMBAT INFANTRYMAN SPECIAL LICENSE PLATES — APPLICATION — LICENSE HOW MARKED — PROOF REQUIRED — FEE. — Any person who has been awarded the combat infantry badge may apply for special motor vehicle license plates for any vehicle such person owns, either solely or jointly, for issuance either to passenger motor vehicles subject to the registration fees provided in section 301.055, or for a nonlocal property-carrying commercial motor vehicle licensed for a gross weight not in excess of twelve thousand pounds as provided in section 301.057. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof as a recipient of the combat infantry badge as the director may require. The director shall then issue license plates bearing the words "COMBAT INFANTRYMAN" in place of the words "SHOW-ME STATE" in a form prescribed by the director, except that such license plates shall be made with fully reflective material, shall have a white background with a blue and red configuration at the discretion of the director, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Such plates shall also bear an image of the combat infantry badge. There shall be an additional fee charged for each set of special combat infantry badge license plates issued equal to the fee charged for personalized license plates in section 301.144. [No more than one set of combat infantry badge license plates shall be issued to a qualified applicant.] **There shall be no limit on the number of license plates any person qualified under this section may obtain so long as each set of license plates issued under this section is issued for vehicles owned solely or jointly by such person.** License plates issued pursuant to the provisions of this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle shall be entitled to operate the motor vehicle with such plates for the duration of the year licensed in the event of the death of the qualified person.

301.447. PEARL HARBOR SURVIVOR LICENSE PLATES — HOW MARKED — APPLICATION — PROOF REQUIRED — TRANSFERABLE WHEN. — 1. Any member of the United States Military Service who was stationed on or within three miles of the Hawaiian Island of Oahu on December 7, 1941, during the enemy attack on Pearl Harbor and other related military installations may apply for special motor vehicle license plates for one vehicle he owns, either solely or jointly, as provided in this section. Any such person shall make application for the special license plates on a form provided by the director of revenue and pay an additional fee equal to the fee charged for personalized license plates in section 301.144 for the issuance of the license plates provided for herein. Applications for license plates issued under this section shall be accompanied by such proof of eligibility as the director may require.

2. Notwithstanding the provisions of section 301.130, each such license plate shall be embossed with the words "PEARL HARBOR SURVIVOR" at the bottom of the plate in the form prescribed by the advisory committee established in section 301.129. Such license plates shall be made with fully reflective material, shall have a white background with a blue and red configuration at the discretion of the advisory committee established in section 301.129, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Such plates shall be available for issuance either to passenger motor vehicles subject to the registration fees provided in section 301.055, or to nonlocal property-carrying commercial motor vehicles licensed for a gross weight of six thousand pounds up through and including twelve thousand pounds as provided in section 301.057.

3. [No more than one set of Pearl Harbor survivor plates shall be issued to a qualified applicant.] **There shall be no limit on the number of license plates any person qualified**

under this section may obtain so long as each set of license plates issued under this section is issued for vehicles owned solely or jointly by such person. License plates issued under the provisions of this section shall not be transferable to any other person except as provided herein. Any registered co-owner of a motor vehicle will be entitled to operate the motor vehicle for the duration of the year licensed in the event of the death of the qualified applicant. Pearl Harbor survivor plates issued under the provisions of this section shall be transferable only to a widow or widower of a Pearl Harbor survivor.

301.451. PURPLE HEART MEDAL, SPECIAL LICENSE PLATES. — Any person who has been awarded the purple heart medal may apply for special motor vehicle license plates for any vehicle he owns, either solely or jointly, other than commercial vehicles weighing over twelve thousand pounds. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof as a recipient of the purple heart medal as the director may require. The director shall then issue license plates bearing letters or numbers or a combination thereof, with the words "PURPLE HEART" in place of the words "SHOW-ME STATE" in a form prescribed by the advisory committee established in section 301.129. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. There shall be an additional fee charged for each set of special purple heart license plates issued equal to the fee charged for personalized license plates, but the additional fee shall only have to be paid once by the qualified applicant at the time of initial application. [No more than two sets of purple heart license plates shall be issued to a qualified applicant.] **There shall be no limit on the number of license plates any person qualified under this section may obtain so long as each set of license plates issued under this section is issued for vehicles owned solely or jointly by such person.** License plates issued under the provisions of this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle shall be entitled to operate the motor vehicle for the duration of the year licensed in the event of the death of the qualified person.

301.456. SILVER STAR, SPECIAL LICENSE PLATE — APPLICATION PROCEDURE — DESIGN — FEE. — Any person who has been awarded the military service award known as the "Silver Star" may apply for special motor vehicle license plates for any vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof as a recipient of the silver star as the director may require. The director shall then issue license plates bearing letters or numbers or a combination thereof as determined by the advisory committee established in section 301.129, with the words "SILVER STAR" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Such plates shall also bear an image of the silver star. There shall be an additional fee charged for each set of silver star license plates issued pursuant to this section equal to the fee charged for personalized license plates. [No more than two sets of silver star license plates shall be issued to a qualified applicant.] **There shall be no limit on the number of license plates any person qualified under this section may obtain so long as each set of license plates issued under this section is issued for vehicles owned solely or jointly by such person.** License plates issued under the provisions of this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle shall be entitled to operate the motor vehicle with such plates for the duration of the year licensed in the event of the death of the qualified person.

301.457. VIETNAM VETERANS, SPECIAL LICENSE PLATES — APPLICATION PROCEDURE — FEES, RESTRICTIONS. — Any person who served in the Vietnam Conflict and either currently serves in any branch of the United States armed forces or was honorably discharged from such service may apply for special motor vehicle license plates, either solely or jointly, for issuance either for any passenger motor vehicle subject to the registration fees provided in section 301.055 or for a nonlocal property-carrying commercial motor vehicle licensed for a gross weight of nine thousand one pounds to twelve thousand pounds as provided in section 301.057, whether such vehicle is owned solely or jointly. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof of service in the Vietnam Conflict and status as currently serving in a branch of the armed forces of the United States or as an honorably discharged veteran as the director may require. Upon presentation of the proof of eligibility and annual payment of the fee required for personalized license plates prescribed by section 301.144, and other fees and documents which may be required by law, the director shall then issue license plates bearing letters or numbers or a combination thereof as determined by the advisory committee established in section 301.129, with the words "VIETNAM VETERAN" in place of the words "SHOW-ME STATE". Such plates shall also bear an image of the Vietnam service medal. The plates shall be clearly visible at night and shall be aesthetically attractive, as prescribed by section 301.130. [No more than one set of special license plates shall be issued pursuant to this section to a qualified applicant.] **There shall be no limit on the number of license plates any person qualified under this section may obtain so long as each set of license plates issued under this section is issued for vehicles owned solely or jointly by such person.** License plates issued pursuant to this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle may operate the motor vehicle for the duration of the year licensed in the event of the death of the qualified person.

301.464. KOREAN WAR VETERAN, SPECIAL LICENSE PLATES. — Any person who served in the Korean War and was honorably discharged from such service may apply for special motor vehicle license plates, either solely or jointly, for issuance for any vehicle the person owns, either solely or jointly, other than an apportioned motor vehicle or commercial motor vehicle licensed in excess of eighteen thousand pounds. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof of service in the Korean War and status as an honorably discharged veteran as the director may require. Upon presentation of the proof of eligibility and annual payment of the fee required for personalized license plates prescribed by section 301.144, and other fees and documents which may be required by law, the director shall then issue license plates bearing letters or numbers or a combination thereof as determined by the advisory committee established in section 301.129, with the words "KOREAN WAR VETERAN" in place of the words "SHOW-ME STATE". Such plates shall also bear an image of the Korean War service medal. The plates shall be clearly visible at night and shall be aesthetically attractive, as prescribed by section 301.130. [No more than one set of special license plates shall be issued pursuant to this section to a qualified applicant.] **There shall be no limit on the number of license plates any person qualified under this section may obtain so long as each set of license plates issued under this section is issued for vehicles owned solely or jointly by such person.** License plates issued pursuant to this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle may operate the motor vehicle for the duration of the year licensed in the event of the death of the qualified person.

301.465. WORLD WAR II VETERAN, SPECIAL LICENSE PLATES. — Any person who served in World War II and was honorably discharged from such service may apply for special motor vehicle license plates, either solely or jointly, for issuance either for any passenger motor vehicle subject to the registration fees provided in section 301.055, or for a nonlocal property

carrying commercial motor vehicle licensed for a gross weight of nine thousand one pounds to twelve thousand pounds as provided in section 301.057, whether such vehicle is owned solely or jointly. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof of service in World War II and status as an honorably discharged veteran as the director may require. Upon presentation of the proof of eligibility and annual payment of the fee required for personalized license plates prescribed by section 301.144, and other fees and documents which may be required by law, the director shall then issue license plates bearing letters or numbers or a combination thereof as determined by the advisory committee established in section 301.129, with the words "WORLD WAR II VETERAN" in place of the words "SHOW-ME-STATE". Such plates shall also bear an image of the World War II service medal. The plates shall be clearly visible at night and shall be aesthetically attractive, as prescribed by section 301.130. [No more than one set of special license plates shall be issued pursuant to this section to a qualified applicant.] **There shall be no limit on the number of license plates any person qualified under this section may obtain so long as each set of license plates issued under this section is issued for vehicles owned solely or jointly by such person.** License plates issued pursuant to this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle may operate the motor vehicle for the duration of the year licensed in the event of the death of the qualified person.

301.3030. NO LIMIT ON CERTAIN SPECIAL LICENSE PLATES FOR QUALIFIED PERSONS. — Any special license plates involving military actions or personnel that are authorized after the effective date of this section shall not limit the number of license plates any person qualified for such special license plate may obtain so long as each set of license plates issued is issued for vehicles owned solely or jointly by the qualified applicant.

301.3054. HONORABLE DISCHARGE FROM THE MILITARY SPECIAL LICENSE PLATES, APPLICATION, FEE. — 1. Any person who served in the active military service in a branch of the armed services of the United States and was honorably discharged from such service may apply for special personalized license plates for any vehicle other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof of service and status as an honorably discharged veteran as the director may require.

2. Upon presentation of proof of eligibility and payment of a fifteen dollar fee in addition to the regular registration fees, and presentation of any documents which may be required by law, the director shall issue to the vehicle owner special personalized license plates with the words "U.S. VET" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, shall have a reflective white background with a blue and red configuration in the area of the plate configuration, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates pursuant to this section.

3. [No more than one set of special license plates shall be issued pursuant to this section to a qualified applicant.] **There shall be no limit on the number of license plates any person qualified under this section may obtain so long as each set of license plates issued under this section is issued for vehicles owned solely or jointly by such person.** License plates issued pursuant to this section shall not be transferable to any other person except that any registered co-owner of the vehicle may operate the vehicle for the duration of the registration in the event of the death of the qualified person. The director of revenue shall make necessary rules and regulations for the enforcement of this section, and shall design all necessary forms required by this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,

that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

301.3061. DISABLED AMERICAN VETERANS SPECIAL LICENSE PLATE — DESIGN, FEE — PICKUP TRUCK PLATES — RULEMAKING AUTHORITY. — 1. Any person eligible for membership in the Disabled American Veterans and who possess a valid membership card issued by the Disabled American Veterans may apply for Missouri Disabled American Veterans license plates for any motor vehicle the person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. The Missouri Disabled American Veterans hereby authorizes the use of its official emblem to be affixed on multiyear personalized license plates as provided in this section.

2. Upon presentation of a current photo identification, the person's valid membership card issued by the Disabled American Veterans, and payment of a fifteen dollar fee in addition to the regular registration fees and presentation of other documents which may be required by law, the department of revenue shall issue a personalized license plate to the vehicle owner, which shall bear the emblem of the Disabled American Veterans, an emblem consisting exclusively of a red letter "D", followed by a white letter "A" and a blue letter "V" in modified block letters, with each letter having a black shaded edging, and shall engrave the words "WARTIME DISABLED" in red letters centered near the bottom of the plate. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. A fee for the issuance of personalized license plates issued under section 301.144 shall not be required for plates issued under this section.

3. Any person who applies for a Disabled American Veterans license plate under this section to be used on a vehicle commonly known and referred to as a pickup truck may be issued a Disabled American Veterans license plate with the designation "beyond local" indicated in the upper right corner of the plate.

4. The director shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

301.3085. UNITED STATES MARINE CORPS, ACTIVE DUTY COMBAT, SPECIAL LICENSE PLATE AUTHORIZED. — Any person who has participated in active duty combat action while serving in the United States Marine Corps or the United States Navy may apply for special motor vehicle license plates for any vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle licensed in excess of eighteen thousand pounds gross weight. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof as a recipient of the combat infantry badge as the director may require. The director shall then issue license plates bearing the words "COMBAT

ACTION RIBBON" in place of the words "SHOW-ME STATE" in a form prescribed by the director, except that such license plates shall be made with fully reflective material, shall have a white background with a blue and red configuration at the discretion of the director, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Such plates shall also bear an image of a blue, yellow, and red ribbon. There shall be an additional fee charged for each set of special combat action ribbon license plates issued equal to the fee charged for personalized license plates in section 301.144. [No more than one set of combat action ribbon license plates shall be issued to a qualified applicant.] **There shall be no limit on the number of license plates any person qualified under this section may obtain so long as each set of license plates issued under this section is issued for vehicles owned solely or jointly by such person.** License plates issued pursuant to the provisions of this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle shall be entitled to operate the motor vehicle with such plates for the duration of the year licensed in the event of the death of the qualified person.

301.3090. OPERATION ENDURING FREEDOM SPECIAL LICENSE PLATES, APPLICATION, FEE. — Any person who is serving on active duty or has served in any branch of the United States military, including the reserves or national guard, during any part of Operation Enduring Freedom and has not been dishonorably discharged may receive special motor vehicle license plates for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof of service during Operation Enduring Freedom or proof of status as an honorably discharged veteran as the director may require. Upon presentation of the proof of eligibility and annual payment of the fee required for personalized license plates prescribed by section 301.144, and other fees and documents which may be required by law, the director shall then issue license plates bearing letters or numbers or a combination thereof as determined by the advisory committee established in section 301.129, with the words "OPERATION ENDURING FREEDOM" in place of the words "SHOW-ME STATE". Such plates shall also bear an image of the American flag. The plates shall be clearly visible at night and shall be aesthetically attractive, as prescribed by section 301.130. [No more than one set of special license plates shall be issued pursuant to this section to a qualified applicant.] **There shall be no limit on the number of license plates any person qualified under this section may obtain so long as each set of license plates issued under this section is issued for vehicles owned solely or jointly by such person.** License plates issued pursuant to this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle may operate the motor vehicle for the duration of the year licensed in the event of the death of the qualified person.

301.3116. OPERATION NOBLE EAGLE SPECIAL LICENSE PLATE, APPLICATION, FEE. — Any person who is serving or has served in any branch of the United States military, including the reserves or national guard, during any part of Operation Noble Eagle and has not been dishonorably discharged may receive special motor vehicle license plates for any motor vehicle such person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof of service during Operation Noble Eagle or proof of status as an honorably discharged veteran as the director may require. Upon presentation of the proof of eligibility and annual payment of the fee required for personalized license plates prescribed by section 301.144, and other fees and documents which may be required by law, the director shall then issue license plates bearing letters or numbers or a combination thereof as determined by the advisory committee established in section 301.129, with the words

"OPERATION NOBLE EAGLE" in place of the words "SHOW-ME STATE". Such plates shall also bear an image of the American flag. The plates shall be clearly visible at night and shall be aesthetically attractive, as prescribed by section 301.130. [No more than one set of special license plates shall be issued pursuant to this section to a qualified applicant.] **There shall be no limit on the number of license plates any person qualified under this section may obtain so long as each set of license plates issued under this section is issued for vehicles owned solely or jointly by such person.** License plates issued pursuant to this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle may operate the motor vehicle for the duration of the year licensed in the event of the death of the qualified person.

301.3141. SOME GAVE ALL SPECIAL LICENSE PLATE — CONTRIBUTION — FEE, DESIGN — RULEMAKING AUTHORITY — EXCEPTION. — 1. Any parent or sibling who has had a member of his or her immediate family die in the line of duty while serving in the U.S. armed forces, after making an annual payment described in subsection 2 of this section to the Veterans of Foreign Wars Department of Missouri and paying all applicable registration fees, may receive special license plates for any vehicle the person owns, either solely or jointly, other than an apportioned motor vehicle or a commercial motor vehicle licensed in excess of eighteen thousand pounds gross weight. The Veterans of Foreign Wars Department of Missouri, in conjunction with the director of the department of revenue, shall design the special license plate. Any immediate family member of a fallen soldier may apply annually for the use of the emblem.

2. Upon making a twenty-five dollar contribution to the Veterans of Foreign Wars Department of Missouri, the motor vehicle owner may apply for the special license plate described in this section. If the contribution is made directly to the Veterans of Foreign Wars Department of Missouri, the Veterans of Foreign Wars Department of Missouri shall issue the individual making the contribution a receipt, verifying the contribution, that may be used to apply for the special license plate. If the contribution is made directly to the director of revenue, the director shall note the contribution, and the owner then may apply for the special license plate. All contribution fees shall be remitted to the Veterans of Foreign Wars Department of Missouri.

3. Upon presentation of the receipt described in subsection 2 of this section or payment of the twenty-five dollar contribution directly to the department of revenue, payment of a fifteen dollar fee in addition to the regular registration fees, presentation of any documents that may be required by law, and any proof that the applicant's family member died in the line of duty while serving in the United States armed forces as the director may require, the director of revenue shall issue to the vehicle owner a special license plate that shall bear the emblem of a five-pointed star and the words "SOME GAVE ALL" in place of the words "SHOW-ME STATE". Such license plates shall be made with fully reflective material with a common color scheme and design of the standard license plate, shall be clearly visible at night, shall have a reflective white background in the area of the plate configuration, and shall be aesthetically attractive, as prescribed by section 301.130. Notwithstanding the provisions of section 301.144, no additional fee shall be charged for the personalization of license plates under this section.

4. A vehicle owner who previously was issued a special license plate authorized by this section, but who does not provide a receipt as described under subsection 2 of this section at a subsequent time of registration, shall be issued a new plate that does not bear the emblem described in this section, as otherwise provided by law. The director of revenue shall make necessary rules and regulations for the enforcement of this section and shall design all necessary forms required by this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all

of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

5. The provisions of section 301.3150 shall not apply to the specialized license plate created under this section.

301.4000. MILITARY SERVICE SPECIAL LICENSE PLATES FOR MOTORCYCLES, APPLICATION, FEES. — Any person who served in the active military service in a branch of the armed forces of the United States and was honorably discharged from such service may apply for special motorcycle license plates, either solely or jointly, for issuance for any motorcycle subject to the registration fees provided in section 301.055. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof of service and status as an honorably discharged veteran as the director may require. Upon presentation of the proof of eligibility and payment of a fifteen dollar fee in addition to the regulation registration fees, and presentation of other documents which may be required by law, the director shall then issue license plates bearing letters or numbers or a combination thereof as determined by the director, with the words "U.S. VET" in place of the words "SHOW-ME STATE". The plates shall be clearly visible at night and shall be aesthetically attractive, as prescribed by section 301.130. [No more than one set of special license plates shall be issued pursuant to this section to a qualified applicant.] **There shall be no limit on the number of license plates any person qualified under this section may obtain so long as each set of license plates issued under this section is issued for vehicles owned solely or jointly by such person.** License plates issued pursuant to this section shall not be transferable to any other person except that any registered co-owner of the motorcycle may operate the motorcycle for the duration of the year licensed in the event of the death of the qualified person.

Approved June 21, 2006

HB 1393 [HB 1393]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes the Superintendent of the State Highway Patrol to establish guidelines under which members of the patrol may accept other secondary employment

AN ACT to repeal section 43.060, RSMo, and to enact in lieu thereof one new section relating to secondary employment for the members of the Missouri state highway patrol.

SECTION

- A. Enacting clause.
- 43.060. Qualifications, patrol and radio personnel — limitations on activities, exceptions — school board membership permitted — secondary employment permitted.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 43.060, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 43.060, to read as follows:

43.060. QUALIFICATIONS, PATROL AND RADIO PERSONNEL — LIMITATIONS ON ACTIVITIES, EXCEPTIONS — SCHOOL BOARD MEMBERSHIP PERMITTED — SECONDARY EMPLOYMENT PERMITTED. — 1. Patrolmen and radio personnel shall not be less than twenty-one years of age. No person shall be appointed as superintendent or member of the patrol or as a member of the radio personnel who has been convicted of a felony or any crime involving moral turpitude, or against whom any indictment or information may then be pending charging the person with having committed a crime, nor shall any person be appointed who is not of good character or who is not a citizen of the United States and who at the time of appointment is not a citizen of the state of Missouri; or who is not a graduate of an accredited four-year high school or in lieu thereof has not obtained a certificate of equivalency from the state department of elementary and secondary education or other source recognized by that department, or who does not possess ordinary physical strength, and who is not able to pass the physical and mental examination that the superintendent prescribes.

2. Except as provided in [subsection] **subsections 3 and 4** of this section, no member of the patrol shall hold any other commission or office, elective or appointive, while a member of the patrol, except that the superintendent may authorize specified members to accept federal commissions providing investigative and arrest authority to enforce federal statutes while working with or at the direction of a federal law enforcement agency. No member of the patrol shall accept any other employment, compensation, reward, or gift other than regular salary and expenses as herein provided except with the written permission of the superintendent. No member of the patrol shall perform any police duty connected with the conduct of any election, nor shall any member of the patrol at any time or in any manner electioneer for or against any party ticket, or any candidate for nomination or election to office on any party ticket, nor for or against any proposition of any kind or nature to be voted upon at any election.

3. Members of the patrol shall be permitted to be candidates for and members or directors of the school board in any school district where they meet the requirements for that position as set forth in chapter 162, RSMo. Members of the patrol who become school board directors or members within the state shall be permitted to receive benefits or compensation for their service to the school board as provided by chapter 162, RSMo.

4. The superintendent may, by general order, set forth the circumstances under which members of the patrol may, in addition to their duties as members of the patrol, be engaged in secondary employment.

Approved June 12, 2006

HB 1427 [HB 1427]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes the Secretary of State to waive fees and other penalties when a corporation is dissolved for failure to file its annual report due to military service

AN ACT to repeal section 351.488, RSMo, and to enact in lieu thereof one new section relating to reinstatement of dissolved corporations.

SECTION

- A. Enacting clause.
351.488. Reinstatement following dissolution — name of reinstated corporation — administrative dissolution, effect of.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 351.488, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 351.488, to read as follows:

351.488. REINSTATEMENT FOLLOWING DISSOLUTION — NAME OF REINSTATED CORPORATION — ADMINISTRATIVE DISSOLUTION, EFFECT OF. — 1. A corporation administratively dissolved pursuant to section 351.486 may apply to the secretary of state for reinstatement. The application must:

- (1) Recite the name of the corporation and the effective date of its administrative dissolution;
- (2) State that the ground or grounds for dissolution either did not exist or have been eliminated;
- (3) State that the corporation's name satisfies the requirements of section 351.110;
- (4) Contain a certificate from the department of revenue reciting that all taxes owed by the corporation, including all liabilities owed as determined by the division of employment security pursuant to chapter 288, RSMo, have been paid or that a tax payback plan has been arranged with the department of revenue for liabilities owed to the department of revenue and a tax payback plan has been arranged with the department of labor and industrial relations division of employment security for any liabilities owed as determined by the division of employment security pursuant to chapter 288, RSMo; and
- (5) Be accompanied by a reinstatement fee in the amount of fifty dollars plus any delinquent fees, penalties, and charges that might have accrued.

2. If the secretary of state determines that the application contains the information and is accompanied by the fees required by subsection 1 of this section and that the information and fees are correct, the secretary of state shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites his or her determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation as provided in section 351.380.

3. When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the corporation resumes carrying on its business as if the administrative dissolution had never occurred.

4. **In the event a corporation was administratively dissolved for failure to file an annual registration report, and the secretary of state determines that such failure was due to military service, as described in section 41.950, RSMo, the secretary of state may determine to waive the requirements of subsection 1 of this section, including waiver of the reinstatement fee described in subdivision (5) of subsection 1 of this section, and shall waive any penalties or charges. Upon making the determination that failure to file an annual registration report was due to military service, the secretary of state shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites his or her determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation as provided in section 351.380. Nothing in this subsection shall be construed so as to waive the annual registration report fees due for the year or years in which no annual registration report was filed.**

5. In the event the name was reissued prior to the time application for reinstatement was filed, the corporation applying for reinstatement may elect to reinstate using a new name that complies with the requirements of section 351.110, and that has been approved by appropriate action of the corporation for changing the name thereof.

Approved June 21, 2006

HB 1437 [SCS HB 1437]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Dissolves the Advisory Committee on Poison Control and transfers its powers and certain duties to the Department of Health and Senior Services and dissolves the Committee on Radiation Control

AN ACT to repeal sections 190.350, 190.353, 190.355, 192.400, 192.410, and 192.420, RSMo, and to enact in lieu thereof five new sections relating to poison and radiation control.

SECTION

- A. Enacting clause.
- 190.353. Powers and duties of department of health and senior services — establishment of regional poison information center — center to provide certain services.
- 190.355. Use of existing resources required.
- 192.400. Definitions.
- 192.410. Powers and duties of department.
- 192.420. Department to make rules — procedure.
- 190.350. Advisory committee on poison control created — members, qualifications, appointment — terms — meetings — expenses.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 190.350, 190.353, 190.355, 192.400, 192.410, and 192.420, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 190.353, 190.355, 192.400, 192.410, and 192.420, to read as follows:

190.353. POWERS AND DUTIES OF DEPARTMENT OF HEALTH AND SENIOR SERVICES — ESTABLISHMENT OF REGIONAL POISON INFORMATION CENTER — CENTER TO PROVIDE CERTAIN SERVICES. — 1. The [advisory committee on poison control] **department of health and senior services** shall:

- (1) Provide for the establishment of a "Missouri Regional Poison Information Center" capable of providing the services described in subsection [3] **2** of this section based on the best demonstrated ability to perform such services as evidenced by past performance of such services and by current certification as a regional poison control center by the American Association of Poison Control Centers[;]. **The department shall, in conjunction with local health agencies and health care providers, determine the region to be served by the center; and**
- (2) Provide for the establishment of a "Missouri Poison Control Network" to consist of poison prevention and treatment centers throughout the state of Missouri, representing all federally designated emergency medical services areas[;]
- (3) Establish policies for data collection at poison treatment centers and procedures for the medical treatment of victims of poisoning and overdose;
- (4) Develop a systematic plan for the statewide education of the general public and health care professionals on the control and proper use of poisonous substances and the treatment of poison victims;
- (5) Cooperate with the Missouri poison information center in systems evaluation and in review of morbidity and mortality rates among poison victims; and

(6) Fund educational programs at area poison treatment centers for the general public and for health care professionals.

2. The committee shall submit an annual report to the presiding officers of each house of the general assembly and the department of health and senior services concerning the administration of the Missouri poison control network, and shall cooperate with the department of health and senior services for the purpose of providing data for health planning].

[3.] **2.** The Missouri poison information center shall provide:

(1) A twenty-four hour toll-free telephone referral and information service for the general public and health care professionals, supervised by a physician who is board-certified in the field of clinical toxicology and staffed by licensed professionals who are certified as information specialists or whose certification is pending, according to the requirements of the American Association of Poison Control Centers;

(2) Design and coordination of appropriate public and professional education services in the area of poison treatment and prevention;

(3) Plans for cooperation between the Missouri poison control network and health and emergency service agencies and associations involved in poison control activities;

(4) Program evaluation and systematic data collection on poison exposures in cooperation with the department of health and senior services; and

(5) Coordination of poison control, treatment, and education activities of poison prevention and treatment centers.

190.355. USE OF EXISTING RESOURCES REQUIRED. — The [advisory committee on poison control may contract for services from such private persons, agencies, and corporations as are necessary to fully effectuate the purposes of sections 190.350 to 190.355, and] **Missouri regional poison information center** shall fully utilize existing institutions and services for the control and treatment of poisons.

192.400. DEFINITIONS. — The following words and terms as used in sections 192.400 to 192.490 mean:

(1) ["Committee on radiation control", a subcommittee of the Missouri atomic energy commission;

(2)] "Radiation", any or all of the following forms of ionizing radiation: gamma and X rays, alpha and beta particles, high speed electrons, neutrons, protons and other nuclear or atomic particles or rays, and other radiant energies including, by way of extension but not of limitation, radium, strontium 90, cesium 137 and cobalt 60, but radiation as herein defined does not include sound or radio waves or visible, infrared or ultraviolet light;

[(3)] (2) "Radiation machine", any device that produces radiation;

[(4)] (3) "Unnecessary radiation", the use of radiation as herein defined in such a manner as to be hazardous to the health of the people or the industrial or agricultural potentials of the state.

192.410. POWERS AND DUTIES OF DEPARTMENT. — The department of health and senior services[, with the guidance and advice of the committee on radiation,] shall:

(1) Develop comprehensive policies and programs for the evaluation and determination of hazards associated with the use of radiation and for their abatement or elimination;

(2) Employ, and, if necessary, train the personnel needed to carry out the provisions of sections 192.400 to 192.490;

(3) Advise, consult and cooperate with other agencies of this state, the federal government, other states, and interstate agencies, and with affected groups, political subdivisions and industries in furtherance of the purposes of sections 192.400 to 192.490;

(4) Accept and administer loans, grants or other funds or gifts from the federal government and from other sources, public or private, for carrying out any of its functions;

(5) Encourage, participate in or conduct studies, investigations, training, research and demonstrations relating to the control of radiation hazards, the measurement of radiation, the effects on health of exposure to radiation and related problems as it may deem necessary or advisable for the discharge of its duties under sections 192.400 to 192.490 or for the protection of public health;

(6) Collect and disseminate information relating to the determination and control of radiation exposure and hazards;

(7) Review and approve plans and specifications for radiation sources submitted pursuant to rules and regulations promulgated under sections 192.400 to 192.490;

(8) Inspect radiation sources, their shielding and immediate surroundings and records for the determination of any possible radiation hazard and may examine any records or memoranda pertaining to the question of radiation machines and the use of radioactive materials.

192.420. DEPARTMENT TO MAKE RULES — PROCEDURE. — The department of health and senior services shall administer sections 192.400 to 192.490 and may[, with the approval of the committee on radiation control,] formulate and promulgate rules on radiation, including registration of radiation sources and machines, as may be necessary to prohibit and prevent unnecessary radiation. Rules shall be promulgated pursuant to the provisions of this section and chapter 536, RSMo. No rule or portion of a rule promulgated under the authority of sections 192.400 to 192.490 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

[190.350. ADVISORY COMMITTEE ON POISON CONTROL CREATED — MEMBERS, QUALIFICATIONS, APPOINTMENT — TERMS — MEETINGS — EXPENSES. — 1. The "Advisory Committee on Poison Control" is hereby created within the department of health and senior services.

2. The committee shall consist of nine members, as follows:

(1) The director of the department of health and senior services or his designee;

(2) One health care professional with demonstrated ability and experience in the area of poison from each of the seven federally designated emergency medical services areas in this state. Such members shall be appointed by the governing body of each area, or, in cases where no governing body has been formed, by the director of the department of health and senior services, and shall serve terms of four years; and

(3) The director of the Missouri poison information center established pursuant to section 190.353.

3. The committee shall meet within ten days after September 28, 1985, and organize by selecting a chairman and vice chairman. A majority of the members shall constitute a quorum.

4. The members of the committee shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.]

Approved June 29, 2006

HB 1440 [SCS HCS HB 1440]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes a checkoff on the Missouri individual and corporate income tax forms for donations for cervical cancer awareness and treatment and the calculation for individual net operating losses

AN ACT to repeal section 143.121, RSMo, and to enact in lieu thereof two new sections relating to Missouri income tax.

SECTION

A. Enacting clause.

143.121. Missouri adjusted gross income.

143.1007. Missouri public health services fund, tax refund may be designated — director of revenue duties.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 143.121, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 143.121 and 143.1007, to read as follows:

143.121. MISSOURI ADJUSTED GROSS INCOME. — 1. The Missouri adjusted gross income of a resident individual shall be the taxpayer's federal adjusted gross income subject to the modifications in this section.

2. There shall be added to the taxpayer's federal adjusted gross income:

(a) The amount of any federal income tax refund received for a prior year which resulted in a Missouri income tax benefit;

(b) Interest on certain governmental obligations excluded from federal gross income by Section 103 of the Internal Revenue Code. The previous sentence shall not apply to interest on obligations of the state of Missouri or any of its political subdivisions or authorities and shall not apply to the interest described in subdivision (a) of subsection 3 of this section. The amount added pursuant to this paragraph shall be reduced by the amounts applicable to such interest that would have been deductible in computing the taxable income of the taxpayer except only for the application of Section 265 of the Internal Revenue Code. The reduction shall only be made if it is at least five hundred dollars;

(c) The amount of any deduction that is included in the computation of federal taxable income pursuant to Section 168 of the Internal Revenue Code as amended by the Job Creation and Worker Assistance Act of 2002 to the extent the amount deducted relates to property purchased on or after July 1, 2002, but before July 1, 2003, and to the extent the amount deducted exceeds the amount that would have been deductible pursuant to Section 168 of the Internal Revenue Code of 1986 as in effect on January 1, 2002; and

(d) The amount of any deduction that is included in the computation of federal taxable income for net operating loss allowed by Section 172 of the Internal Revenue Code of 1986, as amended, other than the deduction allowed by Section 172(b)(1)(G) and Section 172(i) of the Internal Revenue Code of 1986, as amended, for a net operating loss the taxpayer claims in the tax year in which the net operating loss occurred or carries forward for a period of more than twenty years and carries backward for more than two years. Any amount of net operating loss taken against federal **taxable** income [taxes] but disallowed [against] **for** Missouri income [taxes] **tax purposes** pursuant to this paragraph [since July 1,] **after June 18, 2002**, may be carried forward and taken against any [loss] **income** on the Missouri income tax return for a period of not more than twenty years from the year of the initial loss.

3. There shall be subtracted from the taxpayer's federal adjusted gross income the following amounts to the extent included in federal adjusted gross income:

(a) Interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission or instrumentality of the United States to the extent exempt from Missouri income taxes pursuant to the laws of the United States. The amount

subtracted pursuant to this paragraph shall be reduced by any interest on indebtedness incurred to carry the described obligations or securities and by any expenses incurred in the production of interest or dividend income described in this paragraph. The reduction in the previous sentence shall only apply to the extent that such expenses including amortizable bond premiums are deducted in determining the taxpayer's federal adjusted gross income or included in the taxpayer's Missouri itemized deduction. The reduction shall only be made if the expenses total at least five hundred dollars;

(b) The portion of any gain, from the sale or other disposition of property having a higher adjusted basis to the taxpayer for Missouri income tax purposes than for federal income tax purposes on December 31, 1972, that does not exceed such difference in basis. If a gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to one-half of such portion of the gain;

(c) The amount necessary to prevent the taxation pursuant to this chapter of any annuity or other amount of income or gain which was properly included in income or gain and was taxed pursuant to the laws of Missouri for a taxable year prior to January 1, 1973, to the taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain;

(d) Accumulation distributions received by a taxpayer as a beneficiary of a trust to the extent that the same are included in federal adjusted gross income;

(e) The amount of any state income tax refund for a prior year which was included in the federal adjusted gross income;

(f) The portion of capital gain specified in section 135.357, RSMo, that would otherwise be included in federal adjusted gross income;

(g) The amount that would have been deducted in the computation of federal taxable income pursuant to Section 168 of the Internal Revenue Code as in effect on January 1, 2002, to the extent that amount relates to property purchased on or after July 1, 2002, but before July 1, 2003, and to the extent that amount exceeds the amount actually deducted pursuant to Section 168 of the Internal Revenue Code as amended by the Job Creation and Worker Assistance Act of 2002; [and]

(h) For all tax years beginning on or after January 1, 2005, the amount of any income received for military service while the taxpayer serves in a combat zone which is included in federal adjusted gross income and not otherwise excluded therefrom. As used in this section, "combat zone" means any area which the President of the United States by Executive Order designates as an area in which armed forces of the United States are or have engaged in combat. Service is performed in a combat zone only if performed on or after the date designated by the President by Executive Order as the date of the commencing of combat activities in such zone, and on or before the date designated by the President by Executive Order as the date of the termination of combatant activities in such zone; and

(i) **For all tax years ending on or after July 1, 2002, with respect to qualified property that is sold or otherwise disposed of during a taxable year by a taxpayer and for which an addition modification was made under paragraph (c) of subsection 2 of this section, the amount by which addition modification made under paragraph (c) of subsection 2 of this section on qualified property has not been recovered through the additional subtractions provided in paragraph (g) of this subsection.**

4. There shall be added to or subtracted from the taxpayer's federal adjusted gross income the taxpayer's share of the Missouri fiduciary adjustment provided in section 143.351.

5. There shall be added to or subtracted from the taxpayer's federal adjusted gross income the modifications provided in section 143.411.

143.1007. MISSOURI PUBLIC HEALTH SERVICES FUND, TAX REFUND MAY BE DESIGNATED — DIRECTOR OF REVENUE DUTIES. — 1. For all tax years beginning on or after January 1, 2006, each individual or corporation entitled to a tax refund in an amount

sufficient to make an irrevocable designation under this section may designate that any amount, on a single or a combined return, of the refund due be credited to the Missouri public services health fund established in section 192.900, RSMo. The director of revenue shall establish a method that allows the contribution designations authorized by this section to be indicated on the first page of each income tax return form provided by this state. The method may allow for a separate instruction list for the tax return that lists each authorized contribution designation. If any individual or corporation which is not entitled to a tax refund in an amount sufficient to make a designation under this section wishes to make a contribution to the fund, such individual or corporation may, by separate check, draft, or other negotiable instrument, send in with the payment of taxes, or may send in separately, that amount, clearly designated for the fund, and the department of revenue shall forward such amount to the state treasurer for deposit to the designated fund as provided in this section.

2. The director of revenue shall transfer at least monthly all contributions designated by individuals under this section to the state treasurer for deposit to the designated fund.

3. The director of revenue shall transfer at least monthly all contributions designated by corporations under this section, less one percent of the amount in the fund at the time of the transfer for the cost of collection and handling by the department of revenue, to be deposited in the state's general revenue fund, to the state treasurer for deposit to the designated fund.

4. A contribution designated under this section shall only be transferred and deposited in the designated fund after all other claims against the refund from which such contribution is to be made have been satisfied.

5. The moneys transferred and deposited under this section shall be administered by the department of health and senior services, and shall be used solely for the following purposes:

(1) To provide information on cervical cancer, early detection, testing, and prevention to the public and healthcare providers in this state;

(2) To collect statistical information on cervical cancer, including but not limited to age, ethnicity, region, and socioeconomic status of women in this state; and

(3) To provide services and funding for early detection, testing, and prevention of cervical cancer.

6. Not more than twenty percent of the moneys collected under this section shall be used for the costs of administering this section. Not more than thirty percent of the moneys collected under this section shall be used for the purposes listed in subdivision (1) of subsection 5 of this section. Not more than fifty percent of the moneys collected under this section shall be used for the purposes listed in subdivision (3) of subsection 5 of this section.

7. The directors of revenue and the department of health and senior services are authorized to promulgate rules and regulations necessary to administer and enforce this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

8. The director of the department of health and senior services shall determine no later than January 31, 2010, whether moneys sufficient to carry out the provisions of this section have been transferred and deposited under this section. Upon a determination

that insufficient moneys have been transferred and deposited under this section, this section shall expire on February 1, 2010, and any moneys remaining in the fund established in this section shall be used solely for existing cancer programs administered by the department of health and senior services. The director shall notify the revisor of statutes upon such determination that this section has expired.

Approved July 10, 2006

HB 1449 [SCS HCS HB 1449]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Prohibits the state from requiring a substitute or part-time teacher employed within one year of the teacher's retirement to be subject to a background check by a school district

AN ACT to repeal section 168.133, RSMo, and to enact in lieu thereof one new section relating to background checks for teachers.

SECTION

A. Enacting clause.

168.133. Criminal background checks required for school personnel, when, procedure — rulemaking authority.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 168.133, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 168.133, to read as follows:

168.133. CRIMINAL BACKGROUND CHECKS REQUIRED FOR SCHOOL PERSONNEL, WHEN, PROCEDURE — RULEMAKING AUTHORITY. — 1. The school district shall ensure that a criminal background check is conducted on any person employed after January 1, 2005, authorized to have contact with pupils and prior to the individual having contact with any pupil. Such persons include, but are not limited to, administrators, teachers, aides, paraprofessionals, assistants, secretaries, custodians, cooks, and nurses. The school district shall also ensure that a criminal background check is conducted for school bus drivers. The district may allow such drivers to operate buses pending the result of the criminal background check. For bus drivers, the background check shall be conducted on drivers employed by the school district or employed by a pupil transportation company under contract with the school district.

2. In order to facilitate the criminal history background check on any person employed after January 1, 2005, the applicant shall submit two sets of fingerprints collected pursuant to standards determined by the Missouri highway patrol. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the family care safety registry pursuant to sections 210.900 to 210.936, RSMo, and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files.

3. The applicant shall pay the fee for the state criminal history record information pursuant to section 43.530, RSMo, and sections 210.900 to 210.936, RSMo, and pay the appropriate fee determined by the Federal Bureau of Investigation for the federal criminal history record when he or she applies for a position authorized to have contact with pupils pursuant to this section. The department shall distribute the fees collected for the state and federal criminal histories to the Missouri highway patrol.

4. The school district may adopt a policy to provide for reimbursement of expenses incurred by an employee for state and federal criminal history information pursuant to section 43.530, RSMo.

5. If, as a result of the criminal history background check mandated by this section, it is determined that the holder of a certificate issued pursuant to section 168.021 has pled guilty or nolo contendere to, or been found guilty of a crime or offense listed in section 168.071, or a similar crime or offense committed in another state, the United States, or any other country, regardless of imposition of sentence, such information shall be reported to the department of elementary and secondary education.

6. Any school official making a report to the department of elementary and secondary education in conformity with this section shall not be subject to civil liability for such action.

7. **For any teacher who is employed by a school district on a substitute or part-time basis within one year of such teacher's retirement from a Missouri school, the state of Missouri shall not require such teacher to be subject to any additional background checks prior to having contact with pupils. Nothing in this subsection shall be construed as prohibiting or otherwise restricting a school district from requiring additional background checks for such teachers employed by the school district.**

8. Nothing in this section shall be construed to alter the standards for suspension, denial, or revocation of a certificate issued pursuant to this chapter.

[8.] **9.** The state board of education may promulgate rules for criminal history background checks made pursuant to this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after January 1, 2005, shall be invalid and void.

Approved June 12, 2006

HB 1456 [SS#2 SCS HCS HB 1456]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding employment security

AN ACT to repeal sections 288.030, 288.032, 288.035, 288.036, 288.038, 288.040, 288.045, 288.050, 288.060, 288.120, 288.121, 288.122, 288.128, 288.175, 288.190, 288.330, 288.380, 288.381, and 288.500, RSMo, and to enact in lieu thereof twenty-one new sections relating to employment security, with penalty provisions and an effective date.

SECTION

A. Enacting clause.

288.030. Definitions — calculation of Missouri average annual wage.

288.032. Employer defined, exceptions.

288.035. Owner and operator leasing motor vehicle with driver to a for-hire common or contract carrier not deemed employed for unemployment compensation, exception.

288.036. Wages defined — state taxable wage base.

288.038. Maximum weekly benefit amount defined.

288.040. Eligibility for benefits — exceptions — report, contents.

- 288.042. War on terror veterans, defined — eligible for benefits — time period — penalty — offer of similar wages — fund — rulemaking authority.
- 288.045. Misconduct connected with the claimant's work, when — controlled substance and blood alcohol content levels — notice — tests conducted, when — violation, penalty — preemployment testing — testing provision not to apply, when — specimens for testing — confirmation tests — prescriptions — section not applicable, when — implementation of testing program.
- 288.046. General assembly's intent to abrogate certain case law — determining misconduct, evidence of impairment.
- 288.050. Benefits denied unemployed workers, when — pregnancy, requirements for benefit eligibility.
- 288.060. Benefits, how paid — wage credits — benefits due decedent — benefit warrants canceled, when — electronic funds transfer system, allowed — remote claims filing procedures required, contents, duties.
- 288.120. Employer's contribution rate, how determined — exception shared work plan, how computed — surcharges for employers taxed at the maximum rate.
- 288.121. Rate increased when average balance in fund is less than certain amount, how — rate calculations for certain years.
- 288.122. If cash in fund exceeds certain amounts, contribution rate to decrease, amount — table — effective when.
- 288.128. Additional assessment for interest on federal advancements and proceeds of credit instruments, procedure — excess collections, use of — credit instrument and financing agreement repayment surcharge.
- 288.175. Debtor's federal income tax refund may be intercepted — debt defined — debtor defined — use of collection agencies authorized.
- 288.190. Administrative appeals on disputed determinations — party subject to appeal decision, right to counsel.
- 288.330. State liability for benefits limited, authority for application and repayment of federal advances — board of unemployment fund financing created, duties, requirements, powers — disposition of unobligated funds.
- 288.380. Void agreements — offenses, penalties — deductions of support obligations and uncollected overissuance of food stamps — offset for overpayment of benefits by other states, when — definitions.
- 288.381. Collection of benefits paid when claimant later determined ineligible or awarded back pay — violation, damages.
- 288.500. Shared work program created — definitions — plan, requirements — plan denied, submission of new plan, when — contribution by employer, how computed — benefits.
 - B. Effective date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 288.030, 288.032, 288.035, 288.036, 288.038, 288.040, 288.045, 288.050, 288.060, 288.120, 288.121, 288.122, 288.128, 288.175, 288.190, 288.330, 288.380, 288.381, and 288.500, RSMo, are repealed and twenty-one new sections enacted in lieu thereof, to be known as sections 288.030, 288.032, 288.035, 288.036, 288.038, 288.040, 288.042, 288.045, 288.046, 288.050, 288.060, 288.120, 288.121, 288.122, 288.128, 288.175, 288.190, 288.330, 288.380, 288.381, and 288.500 to read as follows:

288.030. DEFINITIONS — CALCULATION OF MISSOURI AVERAGE ANNUAL WAGE. — 1. As used in this chapter, unless the context clearly requires otherwise, the following terms mean:

- (1) "Appeals tribunal", a referee or a body consisting of three referees appointed to conduct hearings and make decisions on appeals from administrative determinations, petitions for reassessment, and claims referred pursuant to subsection 2 of section 288.070;
- (2) "Base period", the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year;
- (3) "Benefit year", the one-year period beginning with the first day of the first week with respect to which an insured worker first files an initial claim for determination of such worker's insured status, and thereafter the one-year period beginning with the first day of the first week with respect to which the individual, providing the individual is then an insured worker, next files such an initial claim after the end of the individual's last preceding benefit year;
- (4) "Benefits", the money payments payable to an insured worker, as provided in this chapter, with respect to such insured worker's unemployment;
- (5) "Calendar quarter", the period of three consecutive calendar months ending on March thirty-first, June thirtieth, September thirtieth, or December thirty-first;

(6) "Claimant", an individual who has filed an initial claim for determination of such individual's status as an insured worker, a notice of unemployment, a certification for waiting week credit, or a claim for benefits;

(7) "Commission", the labor and industrial relations commission of Missouri;

(8) "Common paymaster", two or more related corporations in which one of the corporations has been designated to disburse remuneration to concurrently employed individuals of any of the related corporations;

(9) "Contributions", the money payments to the unemployment compensation fund required by this chapter, exclusive of interest and penalties;

(10) "Decision", a ruling made by an appeals tribunal or the commission after a hearing;

(11) "Deputy", a representative of the division designated to make investigations and administrative determinations on claims or matters of employer liability or to perform related work;

(12) "Determination", any administrative ruling made by the division without a hearing;

(13) "Director", the administrative head of the division of employment security;

(14) "Division", the division of employment security which administers this chapter;

(15) "Employing unit", any individual, organization, partnership, corporation, common paymaster, or other legal entity, including the legal representatives thereof, which has or, subsequent to June 17, 1937, had in its employ one or more individuals performing services for it within this state. All individuals performing services within this state for any employing unit which maintains two or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of this chapter. Each individual engaged to perform or to assist in performing the work of any person in the service of an employing unit shall be deemed to be engaged by such employing unit for all the purposes of this chapter, whether such individual was engaged or paid directly by such employing unit or by such person, provided the employing unit had actual or constructive knowledge of the work;

(16) "Employment office", a free public employment office operated by this or any other state as a part of a state controlled system of public employment offices including any location designated by the state as being a part of the one-stop career system;

(17) "Equipment", a motor vehicle, straight truck, tractor, semi-trailer, full trailer, any combination of these and any other type of equipment used by authorized carriers in the transportation of property for hire;

(18) "Fund", the unemployment compensation fund established by this chapter;

(19) "Governmental entity", the state, any political subdivision thereof, any instrumentality of any one or more of the foregoing which is wholly owned by this state and one or more other states or political subdivisions and any instrumentality of this state or any political subdivision thereof and one or more other states or political subdivisions;

(20) "Initial claim", an application, in a form prescribed by the division, made by an individual for the determination of the individual's status as an insured worker;

(21) "Insured work", employment in the service of an employer;

(22) (a) As to initial claims filed after December 31, 1990, "insured worker", a worker who has been paid wages for insured work in the amount of one thousand dollars or more in at least one calendar quarter of such worker's base period and total wages in the worker's base period equal to at least one and one-half times the insured wages in that calendar quarter of the base period in which the worker's insured wages were the highest, or in the alternative, a worker who has been paid wages in at least two calendar quarters of such worker's base period and whose total base period wages are at least one and one-half times the maximum taxable wage base, taxable to any one employer, in accordance with subsection 2 of section 288.036. For the purposes of this definition, "wages" shall be considered as wage credits with respect to any benefit year, only if such benefit year begins subsequent to the date on which the employing unit by which such wages were paid has become an employer;

(b) As to initial claims filed after December 31, 2004, wages for insured work in the amount of one thousand two hundred dollars or more, after December 31, 2005, one thousand three hundred dollars or more, after December 31, 2006, one thousand four hundred dollars or more, after December 31, 2007, one thousand five hundred dollars or more in at least one calendar quarter of such worker's base period and total wages in the worker's base period equal to at least one and one-half times the insured wages in that calendar quarter of the base period in which the worker's insured wages were the highest, or in the alternative, a worker who has been paid wages in at least two calendar quarters of such worker's base period and whose total base period wages are at least one and one-half times the maximum taxable wage base, taxable to any one employer, in accordance with subsection 2 of section 288.036;

(23) ["Lessor", in a lease, the party granting the use of equipment, with or without a driver to another;

(24)] "Misconduct", an act of wanton or willful disregard of the employer's interest, a deliberate violation of the employer's rules, a disregard of standards of behavior which the employer has the right to expect of his or her employee, or negligence in such degree or recurrence as to manifest culpability, wrongful intent or evil design, or show an intentional and substantial disregard of the employer's interest or of the employee's duties and obligations to the employer;

[(25)] (24) "Referee", a representative of the division designated to serve on an appeals tribunal;

[(26)] (25) "State" includes, in addition to the states of the United States of America, the District of Columbia, Puerto Rico, the Virgin Islands, and the Dominion of Canada;

[(27)] (26) "Temporary employee", an employee assigned to work for the clients of a temporary help firm;

[(28)] (27) "Temporary help firm", a firm that hires its own employees and assigns them to clients to support or supplement the clients' workforce in work situations such as employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects;

[(29)] (28) (a) An individual shall be deemed "totally unemployed" in any week during which the individual performs no services and with respect to which no wages are payable to such individual;

(b) a. An individual shall be deemed "partially unemployed" in any week of less than full-time work if the wages payable to such individual for such week do not equal or exceed the individual's weekly benefit amount plus twenty dollars;

b. Effective for calendar year 2007 and each year thereafter, an individual shall be deemed "partially unemployed" in any week of less than full-time work if the wages payable to such individual for such week do not equal or exceed the individual's weekly benefit amount plus twenty dollars or twenty percent of his or her weekly benefit amount, whichever is greater;

(c) An individual's "week of unemployment" shall begin the first day of the calendar week in which the individual registers at an employment office except that, if for good cause the individual's registration is delayed, the week of unemployment shall begin the first day of the calendar week in which the individual would have otherwise registered. The requirement of registration may by regulation be postponed or eliminated in respect to claims for partial unemployment or may by regulation be postponed in case of a mass layoff due to a temporary cessation of work;

[(30)] (29) "Waiting week", the first week of unemployment for which a claim is allowed in a benefit year or if no waiting week has occurred in a benefit year in effect on the effective date of a shared work plan, the first week of participation in a shared work unemployment compensation program pursuant to section 288.500.

2. The Missouri average annual wage shall be computed as of June thirtieth of each year, and shall be applicable to the following calendar year. The Missouri average annual wage shall be calculated by dividing the total wages reported as paid for insured work in the preceding

calendar year by the average of mid-month employment reported by employers for the same calendar year. The Missouri average weekly wage shall be computed by dividing the Missouri average annual wage as computed in this subsection by fifty-two.

288.032. EMPLOYER DEFINED, EXCEPTIONS. — 1. After December 31, 1977, "employer" means:

(1) Any employing unit which in any calendar quarter in either the current or preceding calendar year paid for service in employment wages of one thousand five hundred dollars or more except that for the purposes of this definition, wages paid for "agricultural labor" as defined in paragraph (a) of subdivision (1) of subsection 12 of section 288.034 and for "domestic services" as defined in subdivisions (2) and (13) of subsection 12 of section 288.034 shall not be considered;

(2) Any employing unit which for some portion of a day in each of twenty different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, had in employment at least one individual (irrespective of whether the same individual was in employment in each such day); except that for the purposes of this definition, services performed in "agricultural labor" as defined in paragraph (a) of subdivision (1) of subsection 12 of section 288.034 and in "domestic services" as defined in subdivisions (2) and (13) of subsection 12 of section 288.034 shall not be considered;

(3) Any governmental entity for which service in employment as defined in subsection 7 of section 288.034 is performed;

(4) Any employing unit for which service in employment as defined in subsection 8 of section 288.034 is performed during the current or preceding calendar year;

(5) Any employing unit for which service in employment as defined in paragraph (b) of subdivision (1) of subsection 12 of section 288.034 is performed during the current or preceding calendar year;

(6) Any employing unit for which service in employment as defined in subsection 13 of section 288.034 is performed during the current or preceding calendar year;

(7) Any individual, type of organization or employing unit which has been determined to be a successor pursuant to section 288.110;

(8) Any individual, type of organization or employing unit which has elected to become subject to this law pursuant to subdivision (1) of subsection 3 of section 288.080;

(9) Any individual, type of organization or employing unit which, having become an employer, has not pursuant to section 288.080 ceased to be an employer;

(10) Any employing unit subject to the Federal Unemployment Tax Act or which, as a condition for approval of this law for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required, pursuant to such act, to be an employer pursuant to this law.

2. (1) Notwithstanding any other provisions of this law, any employer, individual, organization, partnership, corporation, other legal entity or employing unit that meets the definition of "lessor employing unit", as defined in subdivision (5) of this subsection, shall be liable for contributions on wages paid by the lessor employing unit to individuals performing services for client lessees of the lessor employing unit. Unless the lessor employing unit has timely complied with the provisions of subdivision (3) of this subsection, any employer, individual, organization, partnership, corporation, other legal entity or employing unit which is leasing individuals from any lessor employing unit shall be jointly and severally liable for any unpaid contributions, interest and penalties due pursuant to this law from any lessor employing unit attributable to wages for services performed for the client lessee entity by individuals leased to the client lessee entity, and the lessor employing unit shall keep separate records and submit separate quarterly contribution and wage reports for each of its client lessee entities. Delinquent contributions, interest and penalties shall be collected in accordance with the provisions of this chapter.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, any governmental entity or nonprofit organization that meets the definition of "lessor employing unit", as defined in subdivision (5) of this subsection, and has elected to become liable for payments in lieu of contributions as provided in subsection 3 of section 288.090, shall pay the division payments in lieu of contributions, interest, penalties and surcharges in accordance with section 288.090 on benefits paid to individuals performing services for the client lessees of the lessor employing unit. If the lessor employing unit has not timely complied with the provisions of subdivision (3) of this subsection, any client lessees with services attributable to and performed for the client lessees shall be jointly and severally liable for any unpaid payments in lieu of contributions, interest, penalties and surcharges due pursuant to this law. The lessor employing unit shall keep separate records and submit separate quarterly contribution and wage reports for each of its client lessees. Delinquent payments in lieu of contributions, interest, penalties and surcharges shall be collected in accordance with subsection 3 of section 288.090. The election to be liable for payments in lieu of contributions made by a governmental entity or nonprofit organization meeting the definition of "lessor employing unit" may be terminated by the division in accordance with subsection 3 of section 288.090.

(3) In order to relieve a client lessees from joint and several liability and the separate reporting requirements imposed pursuant to this subsection, any lessor employing unit may post and maintain a surety bond issued by a corporate surety authorized to do business in Missouri in an amount equivalent to the contributions or payments in lieu of contributions for which the lessor employing unit was liable in the last calendar year in which he or she accrued contributions or payments in lieu of contributions, or one hundred thousand dollars, whichever amount is the greater, to ensure prompt payment of contributions or payments in lieu of contributions, interest, penalties and surcharges for which the lessor employing unit may be, or becomes, liable pursuant to this law. In lieu of a surety bond, the lessor employing unit may deposit in a depository designated by the director, securities with marketable value equivalent to the amount required for a surety bond. The securities so deposited shall include authorization to the director to sell any securities in an amount sufficient to pay any contributions or payments in lieu of contributions, interest, penalties and surcharges which the lessor employing unit fails to promptly pay when due. In lieu of a surety bond or securities as described in this subdivision, any lessor employing unit may provide the director with an irrevocable letter of credit, as defined in section 409.5-103, RSMo, issued by any state or federally chartered financial institution, in an amount equivalent to the amount required for a surety bond as described in this subdivision. In lieu of a surety bond, securities or an irrevocable letter of credit, a lessor employing unit may obtain a certificate of deposit issued by any state or federally chartered financial institution, in an amount equivalent to the amount required for a surety bond as described in this subdivision. The certificate of deposit shall be pledged to the director until release by the director. As used in this subdivision, the term "certificate of deposit" means a certificate representing any deposit of funds in a state or federally chartered financial institution for a specified period of time which earns interest at a fixed or variable rate, where such funds cannot be withdrawn prior to a specified time without forfeiture of some or all of the earned interest.

(4) Any lessor employing unit which is currently engaged in the business of leasing individuals to client lessees shall comply with the provisions of subdivision (3) of this subsection by September 28, 1992. Lessor employing units not currently engaged in the business of leasing individuals to client lessees shall comply with subdivision (3) of this subsection before entering into a written lease agreement with client lessees.

(5) As used in this subsection, the term "lessor employing unit" means an independently established business entity, governmental entity as defined in subsection 1 of section 288.030 or nonprofit organization as defined in subsection 3 of section 288.090 which, pursuant to a written lease agreement between the lessor employing unit and the client lessees, engages in the business of providing individuals to any other employer, individual, organization, partnership, corporation, other legal entity or employing unit referred to in this subsection as a client lessee.

(6) The provisions of this subsection shall not be applicable to private employment agencies who provide their employees to employers on a temporary help basis provided the private employment agencies are liable as employers for the payment of contributions on wages paid to temporary workers so employed.

3. After September 30, 1986, notwithstanding any provision of section 288.034, for the purpose of this law, in no event shall a for-hire motor carrier as regulated by the Missouri division of motor carrier and railroad safety or whose operations are confined to a commercial zone be determined to be the employer of a lessor as defined in [section 288.030 or of a driver receiving remuneration from a lessor] **49 CFR section 376.2(f), or of a driver receiving remuneration from a lessor as defined in 49 CFR section 376.2(f)**, provided, however, the term "for-hire motor carrier" shall in no event include an organization described in Section 501(c)(3) of the Internal Revenue Code or any governmental entity.

4. The owner or operator of a beauty salon or similar establishment shall not be determined to be the employer of a person who utilizes the facilities of the owner or operator but who receives neither salary, wages or other compensation from the owner or operator and who pays the owner or operator rent or other payments for the use of the facilities.

288.035. OWNER AND OPERATOR LEASING MOTOR VEHICLE WITH DRIVER TO A FOR-HIRE COMMON OR CONTRACT CARRIER NOT DEEMED EMPLOYED FOR UNEMPLOYMENT COMPENSATION, EXCEPTION. — Notwithstanding the provisions of section 288.034, RSMo, in the case of an individual who is the owner, **as defined in subsection 43 of section 301.010, RSMo**, and operator of a motor vehicle which is leased or contracted with a driver to a for-hire common or contract motor vehicle carrier operating within a commercial zone as defined in section 390.020 or 390.041, or operating under a certificate issued by [the motor carrier and railroad safety division of the department of economic development under provisions of this chapter or by the interstate commerce commission] **the Missouri department of transportation or by the United States Department of Transportation or any of its subagencies**, such owner/operator shall not be deemed to be an employee, provided, however, such individual owner and operator shall be deemed to be in employment if the for-hire common or contract vehicle carrier is an organization described in section 501(c)(3) of the Internal Revenue Code or any governmental entity.

288.036. WAGES DEFINED — STATE TAXABLE WAGE BASE. — 1. "Wages" means all remuneration, payable or paid, for personal services including commissions and bonuses and, except as provided in subdivision (7) of this section, the cash value of all remuneration paid in any medium other than cash. Gratuities, including tips received from persons other than the employing unit, shall be considered wages only if required to be reported as wages pursuant to the Federal Unemployment Tax Act, 26 U.S.C. Sec. 3306, and shall be, for the purposes of this chapter, treated as having been paid by the employing unit. Severance pay shall be considered as wages to the extent required pursuant to the Federal Unemployment Tax Act, 26 U.S.C. Section 3306(b). Vacation pay and holiday pay shall be considered as wages for the week with respect to which it is payable. The term "wages" shall not include:

(1) The amount of any payment made (including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for any such payment) to, or on behalf of, an individual under a plan or system established by an employing unit which makes provision generally for individuals performing services for it or for a class or classes of such individuals, on account of:

(a) Sickness or accident disability, but in case of payments made to an employee or any of the employee's dependents this paragraph shall exclude from the term "wages" only payments which are received pursuant to a workers' compensation law; or

(b) Medical and hospitalization expenses in connection with sickness or accident disability; or

- (c) Death;
- (2) The amount of any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employing unit to, or on behalf of, an individual performing services for it after the expiration of six calendar months following the last calendar month in which the individual performed services for such employing unit;
- (3) The amount of any payment made by an employing unit to, or on behalf of, an individual performing services for it or his or her beneficiary:
- (a) From or to a trust described in 26 U.S.C. 401(a) which is exempt from tax pursuant to 26 U.S.C. 501(a) at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such an employee and not as a beneficiary of the trust; or
- (b) Under or to an annuity plan which, at the time of such payments, meets the requirements of section 404(a)(2) of the Federal Internal Revenue Code (26 U.S.C.A. Sec. 404);
- (4) The amount of any payment made by an employing unit (without deduction from the remuneration of the individual in employment) of the tax imposed pursuant to section 3101 of the Federal Internal Revenue Code (26 U.S.C.A. Sec. 3101) upon an individual with respect to remuneration paid to an employee for domestic service in a private home or for agricultural labor;
- (5) Remuneration paid in any medium other than cash to an individual for services not in the course of the employing unit's trade or business;
- (6) Remuneration paid in the form of meals provided to an individual in the service of an employing unit where such remuneration is furnished on the employer's premises and at the employer's convenience, except that remuneration in the form of meals that is considered wages and required to be reported as wages pursuant to the Federal Unemployment Tax Act, 26 U.S.C. Sec. 3306 shall be reported as wages as required thereunder;
- (7) For the purpose of determining wages paid for agricultural labor as defined in paragraph (b) of subdivision (1) of subsection 12 of section 288.034 and for domestic service as defined in subsection 13 of section 288.034, only cash wages paid shall be considered;
- (8) Beginning on October 1, 1996, any payment to, or on behalf of, an employee or the employee's beneficiary under a cafeteria plan, if such payment would not be treated as wages pursuant to the Federal Unemployment Tax Act.
2. The increases or decreases to the state taxable wage base for the remainder of calendar year 2004 shall be eight thousand dollars, and the state taxable wage base in calendar year 2005, and each calendar year thereafter, shall be determined by the provisions within this subsection. On January 1, 2005, the state taxable wage base for calendar year 2005, 2006, and 2007 shall be eleven thousand dollars. The taxable wage base for calendar year 2008[, and each year thereafter.] shall be twelve thousand dollars. The state taxable wage base for each calendar year thereafter shall be determined by the [preceding September thirtieth balance] **average balance of the unemployment compensation trust fund of the four preceding calendar quarters (September thirtieth, June thirtieth, March thirty-first, and December thirty-first of the preceding calendar year)**, less any outstanding federal Title XII advances received pursuant to section 288.330, [or if the fund is not utilizing moneys advanced by the federal government, then less the principal, interest, and administrative expenses related to credit instruments issued under section 288.330, or the principal, interest, and administrative expenses related to financial agreements under subdivision (17) of subsection 2 of section 288.330, or the principal, interest, and administrative expenses related to a combination of Title XII advances, credit instruments, and financial agreements] **less the principal, interest, and administrative expenses related to any credit instrument issued under section 288.030, and less the principal, interest, and administrative expenses related to any financial agreements under subdivision (17) of subsection 2 of section 288.330.** When the [September thirtieth unemployment compensation trust fund balance, or, if the] average balance[, less any federal advances] of the unemployment

compensation trust fund of the four preceding quarters (September thirtieth, June thirtieth, March thirty-first, and December thirty-first of the preceding calendar year) [is less any outstanding federal Title XII advances received pursuant to section 288.330], **as so determined** is:

(1) Less than, or equal to, three hundred fifty million dollars, then the wage base shall increase by one thousand dollars; or

(2) Six hundred fifty million or more, then the state taxable wage base for the subsequent calendar year shall be decreased by five hundred dollars. In no event, however, shall the state taxable wage base increase beyond twelve thousand **five hundred** dollars, or decrease to less than seven thousand dollars. For calendar year 2009, the tax wage base shall be twelve thousand five hundred dollars. For calendar year 2010 and each calendar year thereafter, in no event shall the state taxable wage base increase beyond thirteen thousand dollars, or decrease to less than seven thousand dollars.

For any calendar year, the state taxable wage base shall not be reduced to less than that part of the remuneration which is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment compensation trust fund. Nothing in this section shall be construed to prevent the wage base from increasing or decreasing by increments of five hundred dollars.

288.038. MAXIMUM WEEKLY BENEFIT AMOUNT DEFINED. — With respect to initial claims filed during calendar years 2004 and 2005, the "maximum weekly benefit amount" means four percent of the total wages paid to an eligible insured worker during that quarter of the worker's base period in which the worker's wages were the highest, but the maximum weekly benefit amount shall not exceed two hundred fifty dollars in the calendar years 2004 and 2005. With respect to initial claims filed during calendar years 2006 and 2007 the "maximum weekly benefit amount" means [three and three-fourths] **four** percent of the total wages paid to an eligible insured worker during that quarter of the worker's base period in which the worker's wages were the highest, but the maximum weekly benefit amount shall not exceed two hundred seventy dollars in calendar year 2006 and the maximum weekly benefit amount shall not exceed two hundred eighty dollars in calendar year 2007. With respect to initial claims filed during calendar year 2008 and each calendar year thereafter, the "maximum weekly benefit amount" means four percent of the total wages paid to an eligible insured worker during the average of the two highest quarters of the worker's base period, but the maximum weekly benefit amount shall not exceed three hundred [dollars in calendar year 2008, three hundred ten dollars in calendar year 2009, three hundred] twenty dollars [in calendar year 2010, and each calendar year thereafter]. If such benefit amount is not a multiple of one dollar, such amount shall be reduced to the nearest lower full dollar amount.

288.040. ELIGIBILITY FOR BENEFITS — EXCEPTIONS — REPORT, CONTENTS. — 1. A claimant who is unemployed and has been determined to be an insured worker shall be eligible for benefits for any week only if the deputy finds that:

(1) The claimant has registered for work at and thereafter has continued to report at an employment office in accordance with such regulations as the division may prescribe;

(2) The claimant is able to work and is available for work. No person shall be deemed available for work unless such person has been and is actively and earnestly seeking work. Upon the filing of an initial or renewed claim, and prior to the filing of each weekly claim thereafter, the deputy shall notify each claimant of the number of work search contacts required to constitute an active search for work. No person shall be considered not available for work, pursuant to this subdivision, solely because he or she is a substitute teacher or is on jury duty. A claimant shall not be determined to be ineligible pursuant to this subdivision because of not actively and earnestly seeking work if:

(a) The claimant is participating in training approved pursuant to Section 236 of the Trade Act of 1974, as amended, (19 U.S.C.A. Sec. 2296, as amended);

(b) The claimant is temporarily unemployed through no fault of his or her own and has a definite recall date within eight weeks of his or her first day of unemployment; however, upon application of the employer responsible for the claimant's unemployment, such eight-week period may be extended not to exceed a total of sixteen weeks at the discretion of the director;

(3) The claimant has reported in person to an office of the division as directed by the deputy, but at least once every four weeks, except that a claimant shall be exempted from the reporting requirement of this subdivision if:

(a) The claimant is claiming benefits in accordance with division regulations dealing with partial or temporary total unemployment; or

(b) The claimant is temporarily unemployed through no fault of his or her own and has a definite recall date within eight weeks of his or her first day of unemployment; or

(c) The claimant resides in a county with an unemployment rate, as published by the division, of ten percent or more and in which the county seat is more than forty miles from the nearest division office;

(d) The director of the division of employment security has determined that the claimant belongs to a group or class of workers whose opportunities for reemployment will not be enhanced by reporting in person, or is prevented from reporting due to emergency conditions that limit access by the general public to an office that serves the area where the claimant resides, but only during the time such circumstances exist.

Ineligibility pursuant to this subdivision shall begin on the first day of the week which the claimant was scheduled to claim and shall end on the last day of the week preceding the week during which the claimant does report in person to the division's office;

(4) Prior to the first week of a period of total or partial unemployment for which the claimant claims benefits he or she has been totally or partially unemployed for a waiting period of one week. No more than one waiting week will be required in any benefit year. During calendar year 2008 and each calendar year thereafter, the one-week waiting period shall become compensable once his or her remaining balance on the claim is equal to or less than the compensable amount for the waiting period. No week shall be counted as a week of total or partial unemployment for the purposes of this subsection unless it occurs within the benefit year which includes the week with respect to which the claimant claims benefits;

(5) The claimant has made a claim for benefits;

(6) The claimant is participating in reemployment services, such as job search assistance services, as directed by the deputy if the claimant has been determined to be likely to exhaust regular benefits and to need reemployment services pursuant to a profiling system established by the division, unless the deputy determines that:

(a) The individual has completed such reemployment services; or

(b) There is justifiable cause for the claimant's failure to participate in such reemployment services.

2. A claimant shall be ineligible for waiting week credit or benefits for any week for which the deputy finds he or she is or has been suspended by his or her most recent employer for misconduct connected with his or her work. Suspensions of four weeks or more shall be treated as discharges.

3. (1) Benefits based on "service in employment", defined in subsections 7 and 8 of section 288.034, shall be payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this law; except that:

(a) With respect to service performed in an instructional, research, or principal administrative capacity for an educational institution, benefits shall not be paid based on such services for any week of unemployment commencing during the period between two successive academic years or terms, or during a similar period between two regular but not successive terms,

or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services in the first of such academic years (or terms) and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms;

(b) With respect to services performed in any capacity (other than instructional, research, or principal administrative capacity) for an educational institution, benefits shall not be paid on the basis of such services to any individual for any week which commences during a period between two successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a contract or a reasonable assurance that such individual will perform such services in the second of such academic years or terms;

(c) With respect to services described in paragraphs (a) and (b) of this subdivision, benefits shall not be paid on the basis of such services to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performed such services in the period immediately before such vacation period or holiday recess, and there is reasonable assurance that such individual will perform such services immediately following such vacation period or holiday recess;

(d) With respect to services described in paragraphs (a) and (b) of this subdivision, benefits payable on the basis of services in any such capacity shall be denied as specified in paragraphs (a), (b), and (c) of this subdivision to any individual who performed such services at an educational institution while in the employ of an educational service agency, and for this purpose the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one or more educational institutions.

(2) If compensation is denied for any week pursuant to paragraph (b) or (d) of subdivision (1) of this subsection, to any individual performing services at an educational institution in any capacity (other than instructional, research or principal administrative capacity), and such individual was not offered an opportunity to perform such services for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of the compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of paragraph (b) or (d) of subdivision (1) of this subsection.

4. (1) A claimant shall be ineligible for waiting week credit, benefits or shared work benefits for any week for which he or she is receiving or has received remuneration exceeding his or her weekly benefit amount or shared work benefit amount in the form of:

(a) Compensation for temporary partial disability pursuant to the workers' compensation law of any state or pursuant to a similar law of the United States;

(b) A governmental or other pension, retirement or retired pay, annuity, or other similar periodic payment which is based on the previous work of such claimant to the extent that such payment is provided from funds provided by a base period or chargeable employer pursuant to a plan maintained or contributed to by such employer; but, except for such payments made pursuant to the Social Security Act or the Railroad Retirement Act of 1974 (or the corresponding provisions of prior law), the provisions of this paragraph shall not apply if the services performed for such employer by the claimant after the beginning of the base period (or remuneration for such services) do not affect eligibility for or increase the amount of such pension, retirement or retired pay, annuity or similar payment.

(2) If the remuneration referred to in this subsection is less than the benefits which would otherwise be due, the claimant shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration, and, if such benefit is not a multiple of one dollar, such amount shall be lowered to the next multiple of one dollar.

(3) Notwithstanding the provisions of subdivisions (1) and (2) of this subsection, if a claimant has contributed in any way to the Social Security Act or the Railroad Retirement Act of 1974, or the corresponding provisions of prior law, no part of the payments received pursuant

to such federal law shall be deductible from the amount of benefits received pursuant to this chapter.

5. A claimant shall be ineligible for waiting week credit or benefits for any week for which or a part of which he or she has received or is seeking unemployment benefits pursuant to an unemployment insurance law of another state or the United States; provided, that if it be finally determined that the claimant is not entitled to such unemployment benefits, such ineligibility shall not apply.

6. (1) A claimant shall be ineligible for waiting week credit or benefits for any week for which the deputy finds that such claimant's total or partial unemployment is due to a stoppage of work which exists because of a labor dispute in the factory, establishment or other premises in which such claimant is or was last employed. In the event the claimant secures other employment from which he or she is separated during the existence of the labor dispute, the claimant must have obtained bona fide employment as a permanent employee for at least the major part of each of two weeks in such subsequent employment to terminate his or her ineligibility. If, in any case, separate branches of work which are commonly conducted as separate businesses at separate premises are conducted in separate departments of the same premises, each such department shall for the purposes of this subsection be deemed to be a separate factory, establishment or other premises. This subsection shall not apply if it is shown to the satisfaction of the deputy that:

(a) The claimant is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

(b) The claimant does not belong to a grade or class of workers of which, immediately preceding the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs, any of whom are participating in or financing or directly interested in the dispute.

(2) "Stoppage of work" as used in this subsection means a substantial diminution of the activities, production or services at the establishment, plant, factory or premises of the employing unit. This definition shall not apply to a strike where the employees in the bargaining unit who initiated the strike are participating in the strike. Such employees shall not be eligible for waiting week credit or benefits during the period when the strike is in effect, regardless of diminution, unless the employer has been found guilty of an unfair labor practice by the National Labor Relations Board or a federal court of law for an act or actions preceding or during the strike.

7. On or after January 1, 1978, benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons (or similar periods) if such individual performed such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods).

8. Benefits shall not be payable on the basis of services performed by an alien, unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time such services were performed (including an alien who was lawfully present in the United States as a result of the application of the provisions of Section 212(d)(5) of the Immigration and Nationality Act).

(1) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(2) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of such individual's alien status shall be made except upon a preponderance of the evidence.

9. The directors of the division of employment security and the division of workforce development shall submit to the governor, the speaker of the house of representatives, and the president pro tem of the senate no later than October 15, 2006, a report outlining their recommendations for how to improve work search verification and claimant re-employment activities. The recommendations shall include, but not limited to how to best utilize "greathires.org", and how to reduce the average duration of unemployment insurance claims. Each calendar year thereafter, the directors shall submit a report containing their recommendations on these issues by December thirty-first of each year.

288.042. WAR ON TERROR VETERANS, DEFINED — ELIGIBLE FOR BENEFITS — TIME PERIOD — PENALTY — OFFER OF SIMILAR WAGES — FUND — RULEMAKING AUTHORITY. —

1. For purposes of this chapter, a "war on terror veteran" is a person who serves or has served in the military and to whom the following criteria apply:

- (1) The person is or was a member of the national guard or a member of a United States armed forces reserves unit;
- (2) The person was deployed as part of his or her military unit at any time after September 11, 2001, and such deployment caused the person to be unable to continue working for his or her employer;
- (3) The person was employed either part time or full time before deployment; and
- (4) The person was unemployed in his or her non-military employment either during or within thirty days after the completion of his or her deployment.

2. Notwithstanding any provisions of sections 288.010 to 288.500, any war on terror veteran shall be entitled to receive unemployment compensation benefits under this chapter. A war on terror veteran shall be entitled to a maximum weekly benefit of eight percent of the wages paid to the war on terror veteran during that quarter during which the war on terror veteran earned the highest amount within the five quarters during which the war on terror veteran received wages before deployment. The maximum amount of a maximum weekly benefit shall be one thousand one hundred fifty-three dollars and sixty-four cents, annually adjusted by the consumer price index.

3. A war on terror veteran shall be entitled to a maximum weekly benefit for twenty-six weeks.

4. Any employer who is found in any Missouri court or United States district court located in Missouri to have terminated, demoted, or taken an adverse employment action against a war on terror veteran due to his or her absence while deployed shall be subject to an administrative penalty in the amount of twenty-five thousand dollars. The director shall take judicial notice of judgments in suits brought under the Uniformed Service Employment and Reemployment Rights Act (38 U.S.C. 4301). Such judgments may be considered to have a res judicata effect on the director's determination.

5. A war on terror veteran shall not be considered to have voluntarily quit his or her employment if he or she is not offered the same wages, benefits, and similar work schedule upon his or her return after deployment.

6. There is hereby created in the state treasury the "War on Terror Unemployment Compensation Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with section 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the administration of this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and money earned on such investments shall be credited to the fund.

7. The division of employment security may promulgate rules to enforce this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

288.045. MISCONDUCT CONNECTED WITH THE CLAIMANT'S WORK, WHEN — CONTROLLED SUBSTANCE AND BLOOD ALCOHOL CONTENT LEVELS — NOTICE — TESTS CONDUCTED, WHEN — VIOLATION, PENALTY — PREEMPLOYMENT TESTING — TESTING PROVISION NOT TO APPLY, WHEN — SPECIMENS FOR TESTING — CONFIRMATION TESTS — PRESCRIPTIONS — SECTION NOT APPLICABLE, WHEN — IMPLEMENTATION OF TESTING PROGRAM. — 1. If a claimant is at work with a detectible amount of alcohol or a controlled substance as defined in section 195.010, RSMo, in the claimant's system, in violation of the employer's alcohol and controlled substance workplace policy, the claimant shall have committed misconduct connected with the claimant's work.

2. [For carboxy-tetrahydrocannabinol, a chemical test result of fifty nanograms per milliliter or more shall be considered a detectible amount. For alcohol, a blood alcohol content of eight-hundredths of one percent or more by weight of alcohol in the claimant's blood shall be considered a detectible amount.

3. If the] A test [is] conducted by a laboratory certified by the United States Department of [Transportation, the test results] **Health and Human Services, or another certifying organization so long as the certification requirements meet the minimum standards of the United States Department of Health and Human Services,** and the laboratory's trial packet shall be included in the administrative record and considered as evidence.

[4. For this section to be applicable,] 3. The claimant must have previously been notified of the employer's alcohol and controlled substance workplace policy by conspicuously posting the policy in the workplace, by including the policy in a written personnel policy or handbook, or by statement of such policy in a collective bargaining agreement governing employment of the employee. The policy, **public posting, handbook, collective bargaining agreement or other written notice provided to the employee** must state that a positive test result [shall be deemed misconduct and] may result in suspension or termination of employment.

[5. For this section to be applicable, testing] 4. **Test results** shall be [conducted only if sufficient cause exists to suspect alcohol or controlled substance use by the claimant. If sufficient cause exists to suspect prior alcohol or controlled substance use by the claimant, or] **admissible if the employer's policy clearly states [that there will] an employee may be subject to random, preemployment, reasonable suspicion or post-accident testing**[, then testing of the claimant may be conducted randomly.

6. Notwithstanding any provision of this chapter to the contrary, any claimant found to be in violation of this section shall be subject to the cancellation of all or part of the claimants wage credits as provided by subdivision (2) of subsection 2 of section 288.050.

7.]. **An employer may require a preemployment test for alcohol or controlled substance use as a condition of employment, and test results shall be admissible so long as the claimant was informed of the test requirement prior to taking the test. A random, preemployment, reasonable suspicion or post-accident test result, conducted under this section, which is positive for alcohol or controlled substance use shall be considered misconduct.**

5. The application [of the alcohol and controlled substance testing provisions] of this section **for alcohol and controlled substance testing, relating only to methods of testing,**

criteria for testing, chain of custody for samples or specimens and due process for employee notification procedures shall not apply in the event that the claimant is subject to the provisions of any applicable collective bargaining agreement, [which] **so long as said agreement** contains methods for alcohol or controlled substance testing **that meet or exceed the minimum standards established in this section**. Nothing in this chapter is intended to authorize any employer to test any applicant or employee for alcohol or drugs in any manner inconsistent with Missouri or United States constitution, law, statute or regulation, including those imposed by the Americans with Disabilities Act and the National Labor Relations Act.

[8.] **6.** All specimen collection [and testing] for drugs and alcohol under this chapter shall be performed in accordance with the procedures provided for by the United States Department of Transportation rules for workplace drug and alcohol testing compiled at 49 C.F.R., Part 40. Any employer that performs drug testing or specimen collection shall use chain-of-custody procedures established by regulations of the United States Department of Transportation. "Specimen" means tissue, fluid, or a product of the human body capable of revealing the presence of alcohol or drugs or their metabolites. "Chain of custody" refers to the methodology of tracking specified materials or substances for the purpose of maintaining control and accountability from initial collection to final disposition for all such materials or substances, and providing for accountability at each stage in handling, testing, and storing specimens and reporting test results.

[9. For this section to be applicable.] **7.** The employee may request that a confirmation test on the specimen be conducted. "Confirmation test" means a second analytical procedure used to identify the presence of a specific drug or alcohol or metabolite in a specimen, which test must be different in scientific principle from that of the initial test procedure and must be capable of providing requisite specificity, sensitivity and quantitative accuracy. In the event that a confirmation test is requested, such shall be obtained from a separate, unrelated certified laboratory and shall be at the employee's expense only if said test confirms **the original, positive test results** [as specified in subsection 2 of this section] . **For purposes of this section, "confirmation test" shall be a split specimen test.**

[10.] **8.** Use of a controlled substance as defined under section 195.010, RSMo, under and in conformity with the lawful order of a healthcare practitioner, shall not be deemed to be misconduct connected with work for the purposes of this section.

[11.] **9.** This section shall have no effect on employers who do not avail themselves of the requirements and regulations for alcohol and controlled drug testing determinations that are required to affirm misconduct connected with work findings.

[12.] **10.** Any employer that initiates an alcohol and drug testing policy after January 1, 2005, shall ensure that at least sixty days elapse between a general one-time notice to all employees that an alcohol and drug testing workplace policy is being implemented and the effective date of the program.

[13. (1) In applying provisions of this chapter, it is the intent of the legislature to reject and abrogate previous case law interpretations of "misconduct connected with work" requiring a finding of evidence of impairment of work performance, including, but not limited to, the holdings contained in *Baldor Electric Company v. Raylene Reasoner* and *Missouri Division of Employment Security*, 66 S.W.3d 130 (Mo.App. E.D. 2001).

(2) In determining whether or not misconduct connected with work has occurred, neither the state, any agency of the state, nor any court of the state of Missouri shall require a finding of evidence of impairment of work performance.

[14.] **11.** Notwithstanding any provision of this chapter to the contrary, any claimant found to be in violation of this section shall be subject to the cancellation of all or part of the claimants wage credits as provided by [subdivision (2) of] subsection 2 of section 288.050.

288.046. GENERAL ASSEMBLY'S INTENT TO ABROGATE CERTAIN CASE LAW — DETERMINING MISCONDUCT, EVIDENCE OF IMPAIRMENT. — 1. In applying provisions of

this chapter, it is the intent of the general assembly to reject and abrogate previous case law interpretations of "misconduct connected with work" requiring a finding of evidence of impairment of work performance, including but not limited to, the holdings contained in *Baldor Electric Company v. Raylene Reasoner* and *Missouri Division of Employment Security*, 66 S.W.3d 130 (Mo.App. E.D. 2001).

2. In determining whether misconduct connected with work has occurred, neither the state, any agency of the state, nor any court of the state of Missouri shall require a finding of evidence of impairment of work performance.

288.050. BENEFITS DENIED UNEMPLOYED WORKERS, WHEN — PREGNANCY, REQUIREMENTS FOR BENEFIT ELIGIBILITY. — 1. Notwithstanding the other provisions of this law, a claimant shall be disqualified for waiting week credit or benefits until after the claimant has earned wages for work insured pursuant to the unemployment compensation laws of any state equal to ten times the claimant's weekly benefit amount if the deputy finds:

(1) That the claimant has left work voluntarily without good cause attributable to such work or to the claimant's employer. A temporary employee of a temporary help firm will be deemed to have voluntarily quit employment if the employee does not contact the temporary help firm for reassignment prior to filing for benefits. Failure to contact the temporary help firm will not be deemed a voluntary quit unless the claimant has been advised of the obligation to contact the firm upon completion of assignments and that unemployment benefits may be denied for failure to do so. The claimant shall not be disqualified:

(a) If the deputy finds the claimant quit such work for the purpose of accepting a more remunerative job which the claimant did accept and earn some wages therein;

(b) If the claimant quit temporary work to return to such claimant's regular employer; or

(c) If the deputy finds the individual quit work, which would have been determined not suitable in accordance with paragraphs (a) and (b) of subdivision (3) of this subsection, within twenty-eight calendar days of the first day worked;

(d) As to initial claims filed after December 31, 1988, if the claimant presents evidence supported by competent medical proof that she was forced to leave her work because of pregnancy, notified her employer of such necessity as soon as practical under the circumstances, and returned to that employer and offered her services to that employer as soon as she was physically able to return to work, as certified by a licensed and practicing physician, but in no event later than ninety days after the termination of the pregnancy. An employee shall have been employed for at least one year with the same employer before she may be provided benefits pursuant to the provisions of this paragraph;

(2) That the claimant has retired pursuant to the terms of a labor agreement between the claimant's employer and a union duly elected by the employees as their official representative or in accordance with an established policy of the claimant's employer; or

(3) That the claimant failed without good cause either to apply for available suitable work when so directed by [the] **a deputy of the division or designated staff of an employment office as defined in subsection 16 of section 288.030**, or to accept suitable work when offered the claimant, either through the division or directly by an employer by whom the individual was formerly employed, or to return to the individual's customary self-employment, if any, when so directed by the deputy. An offer of work shall be rebuttably presumed if an employer notifies the claimant in writing of such offer by sending an acknowledgment via any form of certified mail issued by the United States Postal Service stating such offer to the claimant at the claimant's last known address. Nothing in this subdivision shall be construed to limit the means by which the deputy may establish that the claimant has or has not been sufficiently notified of available work.

(a) In determining whether or not any work is suitable for an individual, the division shall consider, among other factors and in addition to those enumerated in paragraph (b) of this subdivision, the degree of risk involved to the individual's health, safety and morals, the

individual's physical fitness and prior training, the individual's experience and prior earnings, the individual's length of unemployment, the individual's prospects for securing work in the individual's customary occupation, the distance of available work from the individual's residence and the individual's prospect of obtaining local work; except that, if an individual has moved from the locality in which the individual actually resided when such individual was last employed to a place where there is less probability of the individual's employment at such individual's usual type of work and which is more distant from or otherwise less accessible to the community in which the individual was last employed, work offered by the individual's most recent employer if similar to that which such individual performed in such individual's last employment and at wages, hours, and working conditions which are substantially similar to those prevailing for similar work in such community, or any work which the individual is capable of performing at the wages prevailing for such work in the locality to which the individual has moved, if not hazardous to such individual's health, safety or morals, shall be deemed suitable for the individual;

(b) Notwithstanding any other provisions of this law, no work shall be deemed suitable and benefits shall not be denied pursuant to this law to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

- a. If the position offered is vacant due directly to a strike, lockout, or other labor dispute;
- b. If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;
- c. If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

2. If a deputy finds that a claimant has been discharged for misconduct connected with the claimant's work, such claimant shall be disqualified for waiting week credit and benefits, and no benefits shall be paid nor shall the cost of any benefits be charged against any employer for any period of employment within the base period until the claimant has earned wages for work insured under the unemployment laws of this state or any other state as prescribed in this section. In addition to the disqualification for benefits pursuant to this provision the division may in the more aggravated cases of misconduct, cancel all or any part of the individual's wage credits, which were established through the individual's employment by the employer who discharged such individual, according to the seriousness of the misconduct. A disqualification provided for pursuant to this subsection shall not apply to any week which occurs after the claimant has earned wages for work insured pursuant to the unemployment compensation laws of any state in an amount equal to six times the claimant's weekly benefit amount. **Should a claimant be disqualified on a second or subsequent occasion within the base period or subsequent to the base period the claimant shall be required to earn wages in an amount equal to or in excess of six times the claimant's weekly benefit amount for each disqualification.**

3. Absenteeism or tardiness may constitute a **rebuttable presumption** of misconduct, regardless of whether the last incident alone constitutes misconduct[. In determining whether the degree of absenteeism or tardiness constitutes a pattern for which misconduct may be found, the division shall consider whether] , **if** the discharge was the result of a violation of the employer's attendance policy, provided the employee had received knowledge of such policy prior to the occurrence of any absence or tardy upon which the discharge is based.

4. Notwithstanding the provisions of subsection 1 of this section, a claimant may not be determined to be disqualified for benefits because the claimant is in training approved pursuant to Section 236 of the Trade Act of 1974, as amended, (19 U.S.C.A. Sec. 2296, as amended), or because the claimant left work which was not "suitable employment" to enter such training. For the purposes of this subsection "suitable employment" means, with respect to a worker, work of a substantially equal or higher skill level than the worker's past adversely affected employment, and wages for such work at not less than eighty percent of the worker's average weekly wage as determined for the purposes of the Trade Act of 1974.

288.060. BENEFITS, HOW PAID — WAGE CREDITS — BENEFITS DUE DECEDENT — BENEFIT WARRANTS CANCELED, WHEN — ELECTRONIC FUNDS TRANSFER SYSTEM, ALLOWED — REMOTE CLAIMS FILING PROCEDURES REQUIRED, CONTENTS, DUTIES. — 1. All benefits shall be paid through employment offices in accordance with such regulations as the division may prescribe.

2. Each eligible insured worker who is totally unemployed in any week shall be paid for such week a sum equal to his or her weekly benefit amount.

3. Each eligible insured worker who is partially unemployed in any week shall be paid for such week a partial benefit. Such partial benefit shall be an amount equal to the difference between his or her weekly benefit amount and that part of his or her wages for such week in excess of twenty dollars, and, if such partial benefit amount is not a multiple of one dollar, such amount shall be reduced to the nearest lower full dollar amount. For calendar year 2007 and each year thereafter, such partial benefit shall be an amount equal to the difference between his or her weekly benefit amount and that part of his or her wages for such week in excess of twenty dollars or twenty percent of his or her weekly benefit amount, whichever is greater, and, if such partial benefit amount is not a multiple of one dollar, such amount shall be reduced to the nearest lower full dollar amount. Termination pay, severance pay or pay received by an eligible insured worker who is a member of the organized militia for training or duty authorized by section 502(a)(1) of Title 32, United States Code, shall not be considered wages for the purpose of this subsection.

4. The division shall compute the wage credits for each individual by crediting him or her with the wages paid to him or her for insured work during each quarter of his or her base period or twenty-six times his or her weekly benefit amount, whichever is the lesser. In addition, if a claimant receives wages in the form of termination pay or severance pay and such payment appears in a base period established by the filing of an initial claim, the claimant may, at his or her option, choose to have such payment included in the calendar quarter in which it was paid or choose to have it prorated equally among the quarters comprising the base period of the claim. The maximum total amount of benefits payable to any insured worker during any benefit year shall not exceed twenty-six times his or her weekly benefit amount, or thirty-three and one-third percent of his or her wage credits, whichever is the lesser. For the purpose of this section, wages shall be counted as wage credits for any benefit year, only if such benefit year begins subsequent to the date on which the employing unit by whom such wages were paid has become an employer. The wage credits of an individual earned during the period commencing with the end of a prior base period and ending on the date on which he or she filed an allowed initial claim shall not be available for benefit purposes in a subsequent benefit year unless, in addition thereto, such individual has subsequently earned either wages for insured work in an amount equal to at least five times his or her current weekly benefit amount or wages in an amount equal to at least ten times his or her current weekly benefit amount.

5. In the event that benefits are due a deceased person and no petition has been filed for the probate of the will or for the administration of the estate of such person within thirty days after his or her death, the division may by regulation provide for the payment of such benefits to such person or persons as the division finds entitled thereto and every such payment shall be a valid payment to the same extent as if made to the legal representatives of the deceased.

6. The division is authorized to cancel any benefit warrant remaining outstanding and unpaid one year after the date of its issuance and there shall be no liability for the payment of any such benefit warrant thereafter.

7. The division may establish an electronic funds transfer system to transfer directly to claimants' accounts in financial institutions benefits payable to them pursuant to this chapter. To receive benefits by electronic funds transfer, a claimant shall satisfactorily complete a direct deposit application form authorizing the division to deposit benefit payments into a designated checking or savings account. Any electronic funds transfer system created pursuant to this subsection shall be administered in accordance with regulations prescribed by the division.

8. The division may issue a benefit warrant covering more than one week of benefits.

9. Prior to January 1, 2005, the division shall institute procedures including, but not limited to, name, date of birth, and Social Security verification matches for remote claims filing via the use of telephone or the Internet in accordance with such regulations as the division shall prescribe. At a minimum, the division shall verify the Social Security number and date of birth when an individual claimant initially files for unemployment insurance benefits. If verification information does not match what is on file in division databases to what the individual is stating, the division shall require the claimant to submit a division-approved form requesting an affidavit of eligibility prior to the payment of additional future benefits. The division of employment security shall cross-check unemployment compensation applicants and recipients with Social Security Administration data maintained by the federal government [on the most frequent basis recommended by the United States Department of Labor, or absent a recommendation,] at least [monthly] **weekly**. The division of employment security shall cross-check at least monthly unemployment compensation applicants and recipients with department of revenue drivers license databases.

288.120. EMPLOYER'S CONTRIBUTION RATE, HOW DETERMINED — EXCEPTION SHARED WORK PLAN, HOW COMPUTED — SURCHARGES FOR EMPLOYERS TAXED AT THE MAXIMUM RATE. — 1. On each June thirtieth, or within a reasonable time thereafter as may be fixed by regulation, the balance of an employer's experience rating account, except an employer participating in a shared work plan under section 288.500, shall determine his contribution rate for the following calendar year as determined by the following table:

Percentage the Employer's Experience Rating Account is to that Employer's Average Annual Payroll		
Equals or Exceeds	Less Than	Contribution Rate
---	-12.0	6.0%
-12.0	-11.0	5.8%
-11.0	-10.0	5.6%
-10.0	-9.0	5.4%
-9.0	-8.0	5.2%
-8.0	-7.0	5.0%
-7.0	-6.0	4.8%
-6.0	-5.0	4.6%
-5.0	-4.0	4.4%
-4.0	-3.0	4.2%
-3.0	-2.0	4.0%
-2.0	-1.0	3.8%
-1.0	0	3.6%
0	2.5	2.7%
2.5	3.5	2.6%
3.5	4.5	2.5%
4.5	5.0	2.4%
5.0	5.5	2.3%
5.5	6.0	2.2%
6.0	6.5	2.1%
6.5	7.0	2.0%
7.0	7.5	1.9%
7.5	8.0	1.8%
8.0	8.5	1.7%
8.5	9.0	1.6%
9.0	9.5	1.5%
9.5	10.0	1.4%

10.0	10.5	1.3%
10.5	11.0	1.2%
11.0	11.5	1.1%
11.5	12.0	1.0%
12.0	12.5	0.9%
12.5	13.0	0.8%
13.0	13.5	0.6%
13.5	14.0	0.4%
14.0	14.5	0.3%
14.5	15.0	0.2%
15.0	---	0.0%

2. Using the same mathematical principles used in constructing the table provided in subsection 1 of this section, the following table has been constructed. The contribution rate for the following calendar year of any employer participating in a shared work plan under section 288.500 during the current calendar year or any calendar year during a prior three-year period shall be determined from the balance in such employer's experience rating account as of the previous June thirtieth, or within a reasonable time thereafter as may be fixed by regulation, from the following table:

Percentage the Employer's Experience Rating Account is to that Employer's Average Annual Payroll		
Equals or Exceeds	Less Than	Contribution Rate
---	-27.0	9.0%
-27.0	-26.0	8.8%
-26.0	-25.0	8.6%
-25.0	-24.0	8.4%
-24.0	-23.0	8.2%
-23.0	-22.0	8.0%
-22.0	-21.0	7.8%
-21.0	-20.0	7.6%
-20.0	-19.0	7.4%
-19.0	-18.0	7.2%
-18.0	-17.0	7.0%
-17.0	-16.0	6.8%
-16.0	-15.0	6.6%
-15.0	-14.0	6.4%
-14.0	-13.0	6.2%
-13.0	-12.0	6.0%
-12.0	-11.0	5.8%
-11.0	-10.0	5.6%
-10.0	-9.0	5.4%
-9.0	-8.0	5.2%
-8.0	-7.0	5.0%
-7.0	-6.0	4.8%
-6.0	-5.0	4.6%
-5.0	-4.0	4.4%
-4.0	-3.0	4.2%
-3.0	-2.0	4.0%
-2.0	-1.0	3.8%
-1.0	0	3.6%
0	2.5	2.7%
2.5	3.5	2.6%
3.5	4.5	2.5%

4.5	5.0	2.4%
5.0	5.5	2.3%
5.5	6.0	2.2%
6.0	6.5	2.1%
6.5	7.0	2.0%
7.0	7.5	1.9%
7.5	8.0	1.8%
8.0	8.5	1.7%
8.5	9.0	1.6%
9.0	9.5	1.5%
9.5	10.0	1.4%
10.0	10.5	1.3%
10.5	11.0	1.2%
11.0	11.5	1.1%
11.5	12.0	1.0%
12.0	12.5	0.9%
12.5	13.0	0.8%
13.0	13.5	0.6%
13.5	14.0	0.4%
14.0	14.5	0.3%
14.5	15.0	0.2%
15.0	---	0.0%

3. Notwithstanding the provisions of subsection 2 of section 288.090, any employer participating in a shared work plan under section 288.500 who has not had at least twelve calendar months immediately preceding the calculation date throughout which his account could have been charged with benefits shall have a contribution rate equal to the highest contribution rate in the table in subsection 2 of this section, until such time as his account has been chargeable with benefits for the period of time sufficient to enable him to qualify for a computed rate on the same basis as other employers participating in shared work plans.

4. Employers who have been taxed at the maximum rate pursuant to this section for two consecutive years shall have a surcharge of one-quarter percent added to their contribution rate calculated pursuant to this section. In the event that an employer remains at the maximum rate pursuant to this section for a third or subsequent year, an additional surcharge of one-quarter percent shall be annually assessed, but in no case shall [this] **the surcharge authorized in this subsection** cumulatively exceed one percent. Additionally, if an employer continues to remain at the maximum rate pursuant to this section an additional surcharge of one-half percent shall be assessed. In no case shall the total surcharge assessed to any employer exceed one and one-half percent in any given year.

288.121. RATE INCREASED WHEN AVERAGE BALANCE IN FUND IS LESS THAN CERTAIN AMOUNT, HOW — RATE CALCULATIONS FOR CERTAIN YEARS. — 1. On October first of each calendar year, if the average balance, less any federal advances, of the unemployment compensation trust fund of the four preceding quarters (September thirtieth, June thirtieth, March thirty-first and December thirty-first of the preceding calendar year) is less than four hundred fifty million dollars, then each employer's contribution rate calculated for the four calendar quarters of the succeeding calendar year shall be increased by the percentage determined from the following table:

Balance in Trust Fund		Percentage of Increase
Less Than	Equals or Exceeds	
\$450,000,000	\$400,000,000	
10%		

\$400,000,000	\$350,000,000
20%	
\$350,000,000	30%

For calendar years 2005, 2006, and 2007, the contribution rate of any employer who is paying the maximum contribution rate shall be increased by forty percent, instead of thirty percent as previously indicated in the table in this section.

2. For calendar [years 2005, 2006, and] **year 2007 and each year thereafter**, an employer's total contribution rate shall equal the employer's contribution rate plus a temporary debt indebtedness assessment equal to the amount to be determined in subdivision (6) of subsection 2 of section 288.330 added to the contribution rate plus the increase authorized under subsection 1 of this section. Any moneys overcollected beyond the actual administrative, interest and principal repayment costs for the credit instruments used shall be deposited into the state unemployment insurance trust fund and credited to the employer's experience account. [The temporary debt indebtedness assessment shall expire upon the last day of the fourth calendar quarter of 2007.]

288.122. IF CASH IN FUND EXCEEDS CERTAIN AMOUNTS, CONTRIBUTION RATE TO DECREASE, AMOUNT — TABLE — EFFECTIVE WHEN. — On October first of each calendar year, if the average balance, less any federal advances, of the unemployment compensation trust fund of the four preceding quarters (September thirtieth, June thirtieth, March thirty-first and December thirty-first of the preceding calendar year) is more than [five] **six** hundred million dollars, then each employer's contribution rate calculated for the four calendar quarters of the succeeding calendar year shall be decreased by the percentage determined from the following table:

Balance in Trust Fund		Percentage of Decrease
More Than	[But] Equal to or Less Than	
\$600,000,000	\$750,000,000	
7%		
\$750,000,000		
12%		

Notwithstanding the table in this section, if the balance in the unemployment insurance compensation trust fund as calculated in this section is more than seven hundred fifty million dollars, the percentage of decrease of the employer's contribution rate calculated for the four calendar quarters of the succeeding calendar year shall be no greater than ten percent for any employer whose calculated contribution rate under section 288.120 is six percent or greater.

288.128. ADDITIONAL ASSESSMENT FOR INTEREST ON FEDERAL ADVANCEMENTS AND PROCEEDS OF CREDIT INSTRUMENTS, PROCEDURE — EXCESS COLLECTIONS, USE OF — CREDIT INSTRUMENT AND FINANCING AGREEMENT REPAYMENT SURCHARGE. — 1. [In addition to all other contributions due under this chapter,] If the fund is utilizing moneys advanced by the federal government under the provisions of 42 U.S.C.A., Section 1321 pursuant to section 288.330, [or if the fund is not utilizing moneys advanced by the federal government, then from the proceeds of credit instruments issued under section 288.330, or from the moneys advanced under financial agreements under subdivision (17) of subsection 2 of section 288.330, or a combination of credit instruments proceeds and moneys advanced under financial agreements,] each employer [shall] **may** be assessed an amount solely for the payment of interest due on such federal advancements[, or if the fund is not utilizing moneys advanced by the federal government, or in the case of issuance of credit instruments for the payment of the principal, interest, and administrative expenses related to such credit instruments, or in the case of financial

agreements for the payment of principal, interest, and administrative expenses related to such financial agreements, or in the case of a combination of credit instruments and financial agreements for the payment of principal, interest, and administrative expenses for both]. The rate shall be determined by dividing the interest due on federal advancements [or if the fund is not utilizing moneys advanced by the federal government, then the principal, interest, and administrative expenses related to credit instruments, or the principal, interest, and administrative expenses related to financial agreements under subdivision (17) of subsection 2 of section 288.330, or the principal, interest, and administrative expenses related to a combination of credit instruments and financial agreements] by ninety-five percent of the total taxable wages paid by all Missouri employers in the preceding calendar year. Each employer's proportionate share shall be the product obtained by multiplying such employer's total taxable wages for the preceding calendar year by the rate specified in this section. Each employer shall be notified of the amount due under this section by June thirtieth of each year and such amount shall be considered delinquent thirty days thereafter. The moneys collected from each employer for the payment of interest due on federal advances[, or if the fund is not utilizing moneys advanced by the federal government, then the payment of principal, interest, and administrative expenses related to credit instruments, or the payment of the principal, interest, and administrative expenses related to financial agreements under subdivision (17) of subsection 2 of section 288.330, or the payment of the principal, interest, and administrative expenses related to a combination of credit instruments and financial agreements,] shall be deposited in the special employment security fund.

2. If on December thirty-first of any year the money collected under [this] **subsection 1 of this** section exceeds the amount of interest due on federal advancements by one hundred thousand dollars or more, then each employer's experience rating account shall be credited with an amount which bears the same ratio to the excess moneys collected under this section as that employer's payment collected under this section bears to the total amount collected under this section. Further, if on December thirty-first of any year the moneys collected under this section exceed the amount of interest due on the federal advancements by less than one hundred thousand dollars, the balance shall be transferred from the special employment security fund to the Secretary of the Treasury of the United States to be credited to the account of this state in the unemployment trust fund.

3. [In addition to all other contributions due under this chapter,] If the fund is utilizing moneys from the proceeds of credit instruments issued under section 288.330, or from the moneys advanced under financial agreements under subdivision (17) of subsection 2 of section 288.330, or a combination of credit instrument proceeds and moneys advanced under financial agreements each employer [shall] **may** be assessed a credit instrument and financing agreement repayment surcharge. The total of such surcharge shall be calculated as an amount up to one hundred fifty percent of the amount required in the twelve-month period following the due date for the payment of such surcharge for the payment of the principal, interest, and administrative expenses related to such credit instruments, or in the case of financial agreements for the payment of principal, interest, and administrative expenses related to such financial agreements, or in the case of a combination of credit instruments and financial agreements for the payment of principal, interest, and administrative expenses for both. **The total annual surcharge to be collected shall be calculated by the division as a percentage of the total statewide contributions collected during the previous calendar year.** Each employer's proportionate share shall be the product obtained by multiplying the [total statewide credit instrument and financing agreement repayment surcharge by a number obtained by dividing the employer's total taxable wages for the prior year by the total taxable wages in the state for the prior year] **percentage calculated under this subsection by each employer's contributions due under this chapter for each filing period during the preceding calendar year.** Each employer shall be notified **by the division** of the amount due under this section by [(January)] **April** thirtieth of each year and such amount shall be considered delinquent thirty days thereafter.

288.175. DEBTOR'S FEDERAL INCOME TAX REFUND MAY BE INTERCEPTED — DEBT DEFINED — DEBTOR DEFINED — USE OF COLLECTION AGENCIES AUTHORIZED. — 1. Notwithstanding any other provisions to the contrary, the division may collect any debt by interception of the debtor's federal income tax refund, in the manner and to the extent allowed by federal law.

2. "Debt" shall mean any established overpayment or sum past due that is legally owed and enforceable under the Missouri employment security law, which has accrued through contract or operation of law and which has become final under state law and remains uncollected.

3. "Debtor" shall mean any individual, sole proprietorship, partnership, corporation, limited liability company, or other legal entity owing a debt.

4. The division may utilize collection agencies to collect any debt as defined in this section to the extent and manner allowed by federal law.

288.190. ADMINISTRATIVE APPEALS ON DISPUTED DETERMINATIONS — PARTY SUBJECT TO APPEAL DECISION, RIGHT TO COUNSEL. — 1. The director shall designate an impartial referee or referees to hear and decide disputed determinations, claims referred pursuant to subsection 2 of section 288.070, and petitions for reassessment. No employee of the division shall participate on behalf of the division in any case in which the division employee is an interested party.

2. The manner in which disputed determinations, referred claims, and petitions for reassessment shall be presented and the conduct of hearings shall be in accordance with regulations prescribed by the division for determining the rights of the parties, whether or not such regulations conform to common law or statutory rules of evidence and other technical rules of procedure. When the same or substantially similar evidence is relevant and material to the matters in issue in claims by more than one individual or in claims by a single individual in respect to two or more weeks of unemployment, the same time and place for considering each such claim or claims may be fixed, hearings thereon jointly conducted, a single record of the proceedings made, and evidence introduced with respect to one proceeding considered as introduced in the others, if in the judgment of the appeals tribunal or the commission having jurisdiction of the proceeding such consolidation would not be prejudicial to any party. A full and complete record shall be kept of all proceedings in connection with a disputed determination, referred claim, or petition for reassessment. The appeals tribunal shall include in the record and consider as evidence all records of the division that are material to the issues. All testimony at any hearing shall be recorded but need not be transcribed unless the matter is further appealed.

3. Unless an appeal on a disputed determination or referred claim is withdrawn, an appeals tribunal, after affording the parties reasonable opportunity for fair hearing, shall affirm, modify, or reverse the determination of the deputy, or shall remand the matter to the deputy with directions. In addition, in any case wherein the appellant, after having been duly notified of the date, time, and place of the hearing, shall fail to appear at such hearing, the appeals tribunal may enter an order dismissing the appeal. The director may transfer to another appeals tribunal the proceedings on an appeal determination before an appeals tribunal. The parties shall be duly notified of an appeals tribunal's decision or order, together with its reason therefor, which shall be deemed to be the final decision or order of the division unless, within thirty days after the date of notification or mailing of such decision, further appeal is initiated pursuant to section 288.200; except that, within thirty days of either notification or mailing of the appeals tribunal's decision or order, the appeals tribunal, on its own motion, **or on motion of any party to the case**, may reconsider any decision or order when it appears that such reconsideration is essential to the accomplishment of the object and purpose of this law. **The authority of the appeals tribunal to reconsider any decision or order under this section shall continue throughout the thirty-day time limit, regardless of whether any party has initiated further appeal under section 288.200 during the thirty-day period.**

4. Unless a petition for reassessment is withdrawn or is allowed without a hearing, the petitioners shall be given a reasonable opportunity for a fair hearing before an appeals tribunal upon each such petition. The appeals tribunal shall promptly notify the interested parties of its decision upon such petition together with its reason therefor. In addition, in any case wherein the appellant, after having been duly notified of the date, time, and place of the hearing, shall fail to appear at such hearing, the appeals tribunal may enter an order dismissing the appeal. In the absence of the filing of an application for review of such decision, the decision, whether it results in a reassessment or otherwise, shall become final thirty days after the date of notification or mailing thereof; except that, within thirty days of either notification or mailing of the appeals tribunal's decision or order, the appeals tribunal, on its own motion, **or on motion of any party to the case**, may reconsider any decision or order when it appears that such reconsideration is essential to the accomplishment of the object and purposes of this law. **The authority of the appeals tribunal to reconsider any decision under this section shall continue throughout the thirty-day time limit, regardless of whether any party has initiated further appeal under section 288.200 during that thirty-day period.**

5. Any party subject to any decision of an appeals tribunal pursuant to this chapter has a right to counsel and shall be notified prior to a hearing conducted pursuant to this chapter that a decision of the appeals tribunal is presumptively conclusive for the purposes of this chapter as provided in section 288.200.

288.330. STATE LIABILITY FOR BENEFITS LIMITED, AUTHORITY FOR APPLICATION AND REPAYMENT OF FEDERAL ADVANCES — BOARD OF UNEMPLOYMENT FUND FINANCING CREATED, DUTIES, REQUIREMENTS, POWERS — DISPOSITION OF UNOBLIGATED FUNDS. —

1. Benefits shall be deemed to be due and payable only to the extent that moneys are available to the credit of the unemployment compensation fund and neither the state nor the division shall be liable for any amount in excess of such sums. The governor is authorized to apply for an advance to the state unemployment fund and to accept the responsibility for the repayment of such advance in order to secure to this state and its citizens the advantages available under the provisions of federal law.

2. (1) The purpose of this subsection is to provide a method of providing funds for the payment of unemployment benefits or maintaining an adequate fund balance in the unemployment compensation fund, and as an alternative to borrowing or obtaining advances from the federal unemployment trust fund or for refinancing those loans or advances.

(2) For the purposes of this subsection, "credit instrument" means any type of borrowing obligation issued under this section, including any bonds, commercial line of credit note, tax anticipation note or similar instrument.

(3) (a) There is hereby created for the purposes of implementing the provisions of this subsection a body corporate and politic to be known as the "Board of Unemployment Fund Financing". The powers of the board shall be vested in five board members who shall be the governor, lieutenant governor, attorney general, director of the department of labor, and the commissioner of administration. The board shall have all powers necessary to effectuate its purposes including, without limitation, the power to provide a seal, keep records of its proceedings, and provide for professional services. The governor shall serve as chair, the lieutenant governor shall serve as vice chair, and the commissioner of administration shall serve as secretary. Staff support for the board shall be provided by the commissioner of administration;

(b) Notwithstanding the provisions of any other law to the contrary:

a. No officer or employee of this state shall be deemed to have forfeited or shall forfeit his or her office or employment by reason of his or her acceptance of an appointment as a board member or for his or her service to the board;

b. Board members shall receive no compensation for the performance of their duties under this subsection, but each commissioner shall be reimbursed from the funds of the

commission for his or her actual and necessary expenses incurred in carrying out his or her official duties under this subsection.

(c) In the event that any of the board members or officers of the board whose signatures or facsimile signatures appear on any credit instrument shall cease to be board members or officers before the delivery of such credit instrument, their signatures or facsimile signatures shall be valid and sufficient for all purposes as if such board members or officers had remained in office until delivery of such credit instrument.

(d) Neither the board members executing the credit instruments of the board nor any other board members shall be subject to any personal liability or accountability by reason of the issuance of the credit instruments.

(4) The board is authorized, by offering for public negotiated sale, to issue, sell, and deliver credit instruments, bearing interest at a fixed or variable rate as shall be determined by the board, which shall mature no later than [three] **ten** years after issuance, in the name of the board in an amount determined by the board [not to exceed a total of four hundred fifty million dollars, less the principal amount of any financing agreement entered into under subdivision (17) of this subsection], **provided that the unpaid principal amount of any outstanding credit instruments, combined with the unpaid principal amount of any financing agreement entered into under subdivision (17) of this subsection, shall not exceed four hundred fifty million dollars at any one time. Such credit instruments may be issued, sold, and delivered** for the purposes set forth in subdivision (1) of this subsection. Such credit instrument may only be issued upon the approval of a resolution authorizing such issuance by a simple majority of the members of the board, with no other proceedings required. [No credit instrument may be outstanding hereunder after January 15, 2008.]

(5) The board shall provide for the payment of the principal of the credit instruments, any redemption premiums, the interest on the credit instruments, and the costs attributable to the credit instruments being issued or outstanding as provided in this **chapter** [subsection and in section 288.310]. Unless the board directs otherwise, the credit instrument shall be repaid in the same time frame and in the same amounts as would be required for loans issued pursuant to 42 U.S.C. Section 1321; however, in no case shall credit instruments be outstanding for more than [three] **ten** years [and further provided that no credit instruments shall be outstanding hereunder after January 15, 2008].

(6) The board may irrevocably pledge money received from the credit instrument and financing agreement repayment surcharge under subsection 3 of section 288.128, and other money legally available to it, which is deposited in an account [created] **authorized** for credit instrument repayment in the special employment security fund, provided that the general assembly has first appropriated moneys received from such surcharge and other moneys deposited in such account for the payment of credit instruments.

(7) Credit instruments issued under this section shall not constitute debts of this state or of the board or any agency, political corporation, or political subdivision of this state and are not a pledge of the faith and credit of this state, the board or of any of those governmental entities and shall not constitute an indebtedness within the meaning of any constitutional or statutory limitation upon the incurring of indebtedness. The credit instruments are payable only from revenue provided for under this chapter. The credit instruments shall contain a statement to the effect that:

(a) Neither the state nor the board nor any agency, political corporation, or political subdivision of the state shall be obligated to pay the principal or interest on the credit instruments except as provided by this section; and

(b) Neither the full faith and credit nor the taxing power of the state nor the board nor any agency, political corporation, or political subdivision of the state is pledged to the payment of the principal, premium, if any, or interest on the credit instruments.

(8) The board pledges and agrees with the owners of any credit instruments issued under this section that the state will not limit or alter the rights vested in the board to fulfill the terms

of any agreements made with the owners or in any way impair the rights and remedies of the owners until the credit instruments are fully discharged.

(9) The board may prescribe the form, details, and incidents of the credit instruments and make such covenants that in its judgment are advisable or necessary to properly secure the payment thereof. If such credit instruments shall be authenticated by the bank or trust company acting as registrar for such by the manual signature of a duly authorized officer or employee thereof, the duly authorized officers of the board executing and attesting such credit instruments may all do so by facsimile signature provided such signatures have been duly filed as provided in the uniform facsimile signature of public officials law, sections 105.273 to 105.278, RSMo, when duly authorized by resolution of the board, and the provisions of section 108.175, RSMo, shall not apply to such credit instruments. The board may provide for the flow of funds and the establishment and maintenance of separate accounts within the special employment security fund, including the interest and sinking account, the reserve account, and other necessary accounts, and may make additional covenants with respect to the credit instruments in the documents authorizing the issuance of credit instruments including refunding credit instruments. The resolutions authorizing the issuance of credit instruments may also prohibit the further issuance of credit instruments or other obligations payable from appropriated moneys or may reserve the right to issue additional credit instruments to be payable from appropriated moneys on a parity with or subordinate to the lien and pledge in support of the credit instruments being issued and may contain other provisions and covenants as determined by the board, provided that any terms, provisions or covenants provided in any resolution of the board shall not be inconsistent with the provisions of this section.

(10) The board may issue credit instruments to refund all or any part of the outstanding credit instruments issued under this section including matured but unpaid interest. As with other credit instruments issued under this section, such refunding credit instruments may bear interest at a fixed or variable rate as determined by the board. [No such refunding credit instruments may be outstanding for more than three years or after January 15, 2008.]

(11) The credit instruments issued by the board, any transaction relating to the credit instruments, and profits made from the sale of the credit instruments are free from taxation by the state or by any municipality, court, special district, or other political subdivision of the state.

(12) As determined necessary by the board the proceeds of the credit instruments less the cost of issuance shall be placed in the state's unemployment compensation fund and may be used for the purposes for which that fund may otherwise be used. If those net proceeds are not placed immediately in the unemployment compensation fund they shall be held in the special employment security fund in an account designated for that purpose until they are transferred to the unemployment compensation fund provided that the proceeds of refunding credit instruments may be placed in an escrow account or such other account or instrument as determined necessary by the board.

(13) The board may enter into any contract or agreement deemed necessary or desirable to effectuate cost-effective financing hereunder. Such agreements may include credit enhancement, credit support, or interest rate agreements including, but not limited to, arrangements such as municipal bond insurance; surety bonds; tax anticipation notes; liquidity facilities; forward agreements; tender agreements; remarketing agreements; option agreements; interest rate swap, exchange, cap, lock or floor agreements; letters of credit; and purchase agreements. Any fees or costs associated with such agreements shall be deemed administrative expenses for the purposes of calculating the credit instrument and financing agreement repayment surcharge under subsection 3 of section 288.128. The board, with consideration of all other costs being equal, shall give preference to Missouri-headquartered financial institutions, or those out-of-state-based financial institutions with at least one hundred Missouri employees.

(14) To the extent this section conflicts with other laws the provisions of this section prevail. This section shall not be subject to the provisions of sections 23.250 to 23.298, RSMo.

(15) If the United States Secretary of Labor holds that a provision of this subsection or of any provision related to the levy or use of the credit instrument and financial agreement repayment surcharge does not conform with a federal statute or would result in the loss to the state of any federal funds otherwise available to it the board, in cooperation with the department of labor and industrial relations, may administer this subsection, and other provisions related to the credit instrument and financial agreement repayment surcharge, to conform with the federal statute until the general assembly meets in its next regular session and has an opportunity to amend this subsection or other sections, as applicable.

(16) Nothing in this chapter shall be construed to prohibit the officials of the state from borrowing from the government of the United States in order to pay unemployment benefits under subsection 1 of this section or otherwise.

(17) (a) As used in this subdivision the term "lender" means any state or national bank.

(b) The board is authorized to enter financial agreements with any lender for the purposes set forth in subdivision (1) of this subsection, or to refinance other financial agreements in whole or in part, upon the approval of the simple majority of the members of the board of a resolution authorizing such financial agreements, with no other proceedings required. The total amount of the outstanding obligation under all such agreements **at any one time** shall not exceed the difference of four hundred fifty million dollars and the principal amount of credit instruments [issued] **outstanding** under this subsection. In no instance shall the outstanding obligation under any financial agreement continue for more than [three] **ten** years[, and no such financial agreement, whether entered into for refinancing purposes or otherwise, shall be outstanding after January 15, 2008]. Repayment of obligations to lenders shall be made from the special employment security fund, section 288.310, subject to appropriation by the general assembly.

(c) Financial agreements entered into under this subdivision shall not constitute debts of this state or of the board or any agency, political corporation, or political subdivision of this state and are not a pledge of the faith and credit of this state, the board or of any of those governmental entities and shall not constitute an indebtedness within the meaning of any constitutional or statutory limitation upon the incurring of indebtedness. The financial agreements are payable only from revenue provided for under this chapter. The financial agreements shall contain a statement to the effect that:

a. Neither the state nor the board nor any agency, political corporation, or political subdivision of the state shall be obligated to pay the principal or interest on the financial agreements except as provided by this section; and

b. Neither the full faith and credit nor the taxing power of the state nor the board nor any agency, political corporation, or political subdivision of the state is pledged to the payment of the principal, premium, if any, or interest on the financial agreements.

(d) Neither the board members executing the financial agreements nor any other board members shall be subject to any personal liability or accountability by reason of the execution of such financial agreements.

(e) The board may prescribe the form, details and incidents of the financing agreements and make such covenants that in its judgment are advisable or necessary to properly secure the payment thereof provided that any terms, provisions or covenants provided in any such financing agreement shall not be inconsistent with the provisions of this section. If such financing agreements shall be authenticated by the bank or trust company acting as registrar for such by the manual signature of a duly authorized officer or employee thereof, the duly authorized officers of the board executing and attesting such financing agreements may all do so by facsimile signature provided such signatures have been duly filed as provided in the uniform facsimile signature of public officials law, sections 105.273 to 105.278, RSMo, when duly authorized by resolution of the board and the provisions of section 108.175, RSMo, shall not apply to such financing agreements.

(18) The commission may issue credit instruments to refund all or any part of the outstanding borrowing issued under this section including matured but unpaid interest.

(19) The credit instruments issued by the commission, any transaction relating to the credit instruments, and profits made from the issuance of credit are free from taxation by the state or by any municipality, court, special district, or other political subdivision of the state.

3. In event of the suspension of this law, any unobligated funds in the unemployment compensation fund, and returned by the United States Treasurer because such Federal Social Security Act is inoperative, shall be held in custody by the treasurer and under supervision of the division until the legislature shall provide for the disposition thereof. In event no disposition is made by the legislature at the next regular meeting subsequent to suspension of said law, then all unobligated funds shall be returned ratably to those who contributed thereto.

4. For purposes of this section, as contained in senate substitute no. 2 for senate committee substitute for house substitute for house committee substitute for house bill nos. 1268 and 1211, ninety-second general assembly, second regular session, the revisor of statutes shall renumber subdivision (16) of subsection 2 of such section as subdivision (17) of such subsection and renumber subdivision (17) of subsection 2 of such section as subdivision (16) of such subsection.

288.380. VOID AGREEMENTS — OFFENSES, PENALTIES — DEDUCTIONS OF SUPPORT OBLIGATIONS AND UNCOLLECTED OVERISSUANCE OF FOOD STAMPS — OFFSET FOR OVERPAYMENT OF BENEFITS BY OTHER STATES, WHEN — DEFINITIONS. — 1. Any agreement by a worker to waive, release, or commute such worker's rights to benefits or any other rights pursuant to this chapter or pursuant to an employment security law of any other state or of the federal government shall be void. Any agreement by a worker to pay all or any portion of any contributions required shall be void. No employer shall directly or indirectly make any deduction from wages to finance the employer's contributions required from him or her, or accept any waiver of any right pursuant to this chapter by any individual in his or her employ.

2. No employing unit or any agent of an employing unit or any other person shall make a false statement or representation knowing it to be false, nor shall knowingly fail to disclose a material fact to prevent or reduce the payment of benefits to any individual, nor to avoid becoming or remaining an employer, nor to avoid or reduce any contribution or other payment required from any employing unit, nor shall willfully fail or refuse to make any contributions or payments nor to furnish any required reports nor to produce or permit the inspection or copying of required records. Each such requirement shall apply regardless of whether it is a requirement of this chapter, of an employment security law of any other state or of the federal government.

3. No person shall make a false statement or representation knowing it to be false or knowingly fail to disclose a material fact, to obtain or increase any benefit or other payment pursuant to this chapter, or under an employment security law of any other state or of the federal government either for himself or herself or for any other person.

4. No person shall without just cause fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, if it is in such person's power so to do in obedience to a subpoena of the director, the commission, an appeals tribunal, or any duly authorized representative of any one of them.

5. No individual claiming benefits shall be charged fees of any kind in any proceeding pursuant to this chapter by the division, or by any court or any officer thereof. Any individual claiming benefits in any proceeding before the division or a court may be represented by counsel or other duly authorized agent; but no such counsel or agents shall either charge or receive for such services more than an amount approved by the division.

6. No employee of the division or any person who has obtained any list of applicants for work or of claimants for or recipients of benefits pursuant to this chapter shall use or permit the use of such lists for any political purpose.

7. Any person who shall willfully violate any provision of this chapter, or of an employment security law of any other state or of the federal government or any rule or

regulation, the observance of which is required under the terms of any one of such laws, shall upon conviction be deemed guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars nor more than one thousand dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment, and each such violation or each day such violation continues shall be deemed to be a separate offense.

8. In case of contumacy by, or refusal to obey a subpoena issued to, any person, any court of this state within the jurisdiction of which the inquiry is carried on, or within the jurisdiction of which the person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the director, the commission, an appeals tribunal, or any duly authorized representative of any one of them shall have jurisdiction to issue to such person an order requiring such person to appear before the director, the commission, an appeals tribunal or any duly authorized representative of any one of them, there to produce evidence if so ordered or there to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by the court as a contempt thereof.

9. (1) Any individual or employer who receives or denies unemployment benefits by intentionally misrepresenting, misstating, or failing to disclose any material fact has committed fraud. After the discovery of facts indicating fraud, a deputy shall make a written determination that the individual obtained or denied unemployment benefits by fraud and that the individual must promptly repay the unemployment benefits to the fund. In addition, the deputy shall assess a penalty equal to twenty-five percent of the amount fraudulently obtained or denied. If division records indicate that the individual or employer had a prior established overpayment or record of denial due to fraud, the deputy shall, on the present overpayment or determination, assess a penalty equal to one hundred percent of the amount fraudulently obtained.

(2) Unless the individual or employer within thirty calendar days after notice of such determination of overpayment by fraud is either delivered in person or mailed to the last known address of such individual or employer files an appeal from such determination, it shall be final. Proceedings on the appeal shall be conducted in accordance with section 288.190.

(3) If the individual or employer fails to repay the unemployment benefits and penalty, assessed as a result of the deputy's determination that the individual or employer obtained or denied unemployment benefits by fraud, such sum shall be collectible in the manner provided in sections 288.160 and 288.170 for the collection of past due contributions. If the individual or employer fails to repay the unemployment benefits that the individual or employer denied or obtained by fraud, the division may offset from any future unemployment benefits otherwise payable the amount of the overpayment, or may take such steps as are necessary to effect payment from the individual or employer. Future benefits may not be used to offset the penalty due. Money received in repayment of fraudulently obtained or denied unemployment benefits and penalties shall first be applied to the unemployment benefits overpaid, then to the penalty amount due. Payments made toward the penalty amount due shall be credited to the special employment security fund.

(4) If fraud or evasion on the part of any employer is discovered by the division, the employer will be subject to the fraud provisions of subsection 4 of section 288.160.

(5) The provisions of this subsection shall become effective July 1, 2005.

10. An individual who willfully fails to disclose amounts earned during any week with respect to which benefits are claimed by him or her, willfully fails to disclose or has falsified as to any fact which would have disqualified him or her or rendered him or her ineligible for benefits during such week, or willfully fails to disclose a material fact or makes a false statement or representation in order to obtain or increase any benefit pursuant to this chapter shall forfeit all of his or her benefit rights, and all of his or her wage credits accrued prior to the date of such failure to disclose or falsification shall be canceled, and any benefits which might otherwise have become payable to him or her subsequent to such date based upon such wage credits shall be forfeited; except that, the division may, upon good cause shown, modify such reduction of benefits and cancellation of wage credits. It shall be presumed that such failure or falsification

was willful in any case in which an individual signs and certifies a claim for benefits and fails to disclose or falsifies as to any fact relative to such claim.

11. (1) Any assignment, pledge, or encumbrance of any rights to benefits which are or may become due or payable pursuant to this chapter shall be void; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt; and benefits received by any individual, so long as they are not mingled with other funds of the recipient, shall be exempt from any remedy whatsoever for the collection of all debts except debts incurred for necessities furnished to such individual or the individual's spouse or dependents during the time such individual was unemployed. Any waiver of any exemption provided for in this subsection shall be void; except that this section shall not apply to:

(a) Support obligations, as defined pursuant to paragraph (g) of subdivision (2) of this subsection, which are being enforced by a state or local support enforcement agency against any individual claiming unemployment compensation pursuant to this chapter; or

(b) Uncollected overissuances (as defined in Section 13(c)(1) of the Food Stamp Act of 1977) of food stamp coupons;

(2) (a) An individual filing a new claim for unemployment compensation shall, at the time of filing such claim, disclose whether or not the individual owes support obligations, as defined pursuant to paragraph (g) of this subdivision or owes uncollected overissuances of food stamp coupons (as defined in Section 13(c)(1) of the Food Stamp Act of 1977). If any such individual discloses that he or she owes support obligations or uncollected overissuances of food stamp coupons, and is determined to be eligible for unemployment compensation, the division shall notify the state or local support enforcement agency enforcing the support obligation or the state food stamp agency to which the uncollected food stamp overissuance is owed that such individual has been determined to be eligible for unemployment compensation;

(b) The division shall deduct and withhold from any unemployment compensation payable to an individual who owes support obligations as defined pursuant to paragraph (g) of this subdivision or who owes uncollected food stamp overissuances:

a. The amount specified by the individual to the division to be deducted and withheld pursuant to this paragraph if neither subparagraph b. nor subparagraph c. of this paragraph is applicable; or

b. The amount, if any, determined pursuant to an agreement submitted to the division pursuant to Section 454(20)(B)(i) of the Social Security Act by the state or local support enforcement agency, unless subparagraph c. of this paragraph is applicable; or the amount (if any) determined pursuant to an agreement submitted to the state food stamp agency pursuant to Section 13(c)(3)(a) of the Food Stamp Act of 1977; or

c. Any amount otherwise required to be so deducted and withheld from such unemployment compensation pursuant to properly served legal process, as that term is defined in Section 459(i) of the Social Security Act; or any amount otherwise required to be deducted and withheld from the unemployment compensation pursuant to Section 13(c)(3)(b) of the Food Stamp Act of 1977;

(c) Any amount deducted and withheld pursuant to paragraph (b) of this subdivision shall be paid by the division to the appropriate state or local support enforcement agency or state food stamp agency;

(d) Any amount deducted and withheld pursuant to paragraph (b) of this subdivision shall, for all purposes, be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the state or local support enforcement agency in satisfaction of the individual's support obligations or to the state food stamp agency to which the uncollected overissuance is owed as repayment of the individual's uncollected overissuance;

(e) For purposes of paragraphs (a), (b), (c), and (d) of this subdivision, the term "unemployment compensation" means any compensation payable pursuant to this chapter,

including amounts payable by the division pursuant to an agreement pursuant to any federal law providing for compensation, assistance, or allowances with respect to unemployment;

(f) Deductions will be made pursuant to this section only if appropriate arrangements have been made for reimbursement by the state or local support enforcement agency, or the state food stamp agency, for the administrative costs incurred by the division pursuant to this section which are attributable to support obligations being enforced by the state or local support enforcement agency or which are attributable to uncollected overissuances of food stamp coupons;

(g) The term "support obligations" is defined for purposes of this subsection as including only obligations which are being enforced pursuant to a plan described in Section 454 of the Social Security Act which has been approved by the Secretary of Health and Human Services pursuant to Part D of Title IV of the Social Security Act;

(h) The term "state or local support enforcement agency", as used in this subsection, means any agency of a state, or political subdivision thereof, operating pursuant to a plan described in paragraph (g) of this subdivision;

(i) The term "state food stamp agency" as used in this subsection, means any agency of a state, or political subdivision thereof, operating pursuant to a plan described in the Food Stamp Act of 1977;

(j) The director may prescribe the procedures to be followed and the form and contents of any documents required in carrying out the provisions of this subsection;

(k) The division shall comply with the following priority when deducting and withholding amounts from any unemployment compensation payable to an individual:

a. Before withholding any amount for child support obligations or uncollected overissuances of food stamp coupons, the division shall first deduct and withhold from any unemployment compensation payable to an individual the amount, as determined by the division, owed pursuant to subsection 12 or 13 of this section;

b. If, after deductions are made pursuant to subparagraph a. of this paragraph, an individual has remaining unemployment compensation amounts due and owing, and the individual owes support obligations or uncollected overissuances of food stamp coupons, the division shall first deduct and withhold any remaining unemployment compensation amounts for application to child support obligations owed by the individual;

c. If, after deductions are made pursuant to subparagraphs a. and b. of this paragraph, an individual has remaining unemployment compensation amounts due and owing, and the individual owes uncollected overissuances of food stamp coupons, the division shall deduct and withhold any remaining unemployment compensation amounts for application to uncollected overissuances of food stamp coupons owed by the individual.

12. Any person who, by reason of the nondisclosure or misrepresentation by such person or by another of a material fact, has received any sum as benefits pursuant to this chapter while any conditions for the receipt of benefits imposed by this chapter were not fulfilled in such person's case, or while he or she was disqualified from receiving benefits, shall, in the discretion of the division, either be liable to have such sums deducted from any future benefits payable to such person pursuant to this chapter or shall be liable to repay to the division for the unemployment compensation fund a sum equal to the amounts so received by him or her[, and such sum shall be collectible in the manner provided in sections 288.160 and 288.170 for the collection of past due contributions].

13. Any person who, by reason of any error or omission or because of a lack of knowledge of material fact on the part of the division, has received any sum of benefits pursuant to this chapter while any conditions for the receipt of benefits imposed by this chapter were not fulfilled in such person's case, or while such person was disqualified from receiving benefits, shall after an opportunity for a fair hearing pursuant to subsection 2 of section 288.190 have such sums deducted from any further benefits payable to such person pursuant to this chapter, provided that the division may elect not to process such possible overpayments where the amount of same is not over twenty percent of the maximum state weekly benefit amount in effect at the time the

error or omission was discovered. [Recovering overpaid unemployment compensation benefits which are a result of error or omission on the part of the claimant shall be pursued by the division through billing and setoffs against state income tax refunds.]

14. Recovering overpaid unemployment compensation benefits shall be pursued by the division against any person receiving such overpaid unemployment compensation benefits through billing, setoffs against state and federal tax refunds to the extent permitted by federal law, intercepts of lottery winnings under section 313.321, RSMo, and collection efforts as provided for in sections 288.160, 288.170, and 288.175.

15. Any person who has received any sum as benefits under the laws of another state, or under any unemployment benefit program of the United States administered by another state while any conditions for the receipt of benefits imposed by the law of such other state were not fulfilled in his or her case, shall after an opportunity for a fair hearing pursuant to subsection 2 of section 288.190 have such sums deducted from any further benefits payable to such person pursuant to this chapter, but only if there exists between this state and such other state a reciprocal agreement under which such entity agrees to recover benefit overpayments, in like fashion, on behalf of this state.

288.381. COLLECTION OF BENEFITS PAID WHEN CLAIMANT LATER DETERMINED INELIGIBLE OR AWARDED BACK PAY — VIOLATION, DAMAGES. — 1. The provisions of subsection 6 of section 288.070 notwithstanding, benefits paid to a claimant pursuant to subsection 5 of section 288.070 to which the claimant was not entitled based on a subsequent determination, redetermination or decision which has become final, shall be collectible by the division as provided in subsections [11 and] 12 **and 13** of section 288.380.

2. Notwithstanding any other provision of law to the contrary, when a claimant who has been separated from his employment receives benefits under this chapter and subsequently receives a back pay award pursuant to action by a governmental agency, court of competent jurisdiction or as a result of arbitration proceedings, for a period of time during which no services were performed, the division shall establish an overpayment equal to the lesser of the amount of the back pay award or the benefits paid to the claimant which were attributable to the period covered by the back pay award. After the claimant has been provided an opportunity for a fair hearing under the provision of section 288.190, the employer shall withhold from the employee's backpay award the amount of benefits so received and shall pay such amount to the division and separately designate such amount.

3. For the purposes of subsection 2 of this section, the division shall provide the employer with the amount of benefits paid to the claimant.

4. Any individual, company, association, corporation, partnership, bureau, agency or the agent or employee of the foregoing who interferes with, obstructs, or otherwise causes an employer to fail to comply with the provisions of subsection 2 of this section shall be liable for damages in the amount of three times the amount owed by the employer to the division. The division shall proceed to collect such damages under the provisions of sections 288.160 and 288.170.

288.500. SHARED WORK PROGRAM CREATED — DEFINITIONS — PLAN, REQUIREMENTS — PLAN DENIED, SUBMISSION OF NEW PLAN, WHEN — CONTRIBUTION BY EMPLOYER, HOW COMPUTED — BENEFITS. — 1. There is created under this section a voluntary "Shared Work Unemployment Compensation Program". In connection therewith, the division may adopt rules and establish procedures, not inconsistent with this section, which are necessary to administer this program.

2. As used in this section, the following terms mean:

- (1) "Affected unit", a specified department, shift, or other unit of three or more employees which is designated by an employer to participate in a shared work plan;
- (2) "Division", the division of employment security;

(3) "Fringe benefit", health insurance, a retirement benefit received under a pension plan, a paid vacation day, a paid holiday, sick leave, and any other analogous employee benefit that is provided by an employer;

(4) "Normal weekly hours of work", as to any individual, the lesser of forty hours or the average obtained by dividing the total number of hours worked per week in the preceding twelve-week period by the number twelve;

(5) "Participating employee", an employee who works a reduced number of hours under a shared work plan;

(6) "Participating employer", an employer who has a shared work plan in effect;

(7) "Shared work benefit", an unemployment compensation benefit that is payable to an individual in an affected unit because the individual works reduced hours under an approved shared work plan;

(8) "Shared work plan", a program for reducing unemployment under which employees who are members of an affected unit share the work remaining after a reduction in their normal weekly hours of work;

(9) "Shared work unemployment compensation program", a program designed to reduce unemployment and stabilize the work force by allowing certain employees to collect unemployment compensation benefits if the employees share the work remaining after a reduction in the total number of hours of work and a corresponding reduction in wages.

3. An employer who wishes to participate in the shared work unemployment compensation program established under this section shall submit a written shared work plan in a form acceptable to the division for approval. As a condition for approval by the division, a participating employer shall agree to furnish the division with reports relating to the operation of the shared work plan as requested by the division. The employer shall monitor and evaluate the operation of the established shared work plan as requested by the division and shall report the findings to the division.

4. The division may approve a shared work plan if:

(1) The employer has filed all reports required to be filed under this chapter for all past and current periods and has paid all contributions due for all past and current periods;

(2) The shared work plan applies to and identifies a specified affected unit;

(3) The employees in the affected unit are identified by name and Social Security number;

(4) The shared work plan reduces the normal weekly hours of work for an employee in the affected unit by not less than twenty percent and not more than forty percent;

(5) The shared work plan applies to at least ten percent of the employees in the affected unit;

(6) The shared work plan describes the manner in which the participating employer treats the fringe benefits of each employee in the affected unit; and

(7) The employer certifies that the implementation of a shared work plan and the resulting reduction in work hours is in lieu of temporary layoffs that would affect at least ten percent of the employees in the affected unit and that would result in an equivalent reduction in work hours.

5. If any of the employees who participate in a shared work plan under this section are covered by a collective bargaining agreement, the shared work plan shall be approved in writing by the collective bargaining agent.

6. No shared work plan which will subsidize seasonal employers during the off-season or subsidize employers, at least fifty percent of the employees of which have normal weekly hours of work equaling thirty-two hours or less, shall be approved by the division. No shared work plan benefits will be initiated [for pay periods] when the reduced hours [reflect] **coincide with** holiday earnings already committed to be paid by the employer. **Shared work-plan benefits may not be denied in any week containing a holiday for which holiday earnings are committed to be paid by the employer unless the shared work benefits to be paid are for the same hours in the same day as the holiday earnings.**

7. The division shall approve or deny a shared work plan not later than the thirtieth day after the day on which the shared work plan is received by the division. The division shall approve or deny a plan in writing. If the division denies a plan, the division shall notify the employer of the reasons for the denial. Approval or denial of a plan by the division shall be final and such determination shall be subject to review in the manner otherwise provided by law. If approval of a plan is denied by the division, the employer may submit a new plan to the division for consideration no sooner than forty-five calendar days following the date on which the division disapproved the employer's previously submitted plan.

8. The division may revoke approval of a shared work plan and terminate the plan if it determines that the shared work plan is not being executed according to the terms and intent of the shared work unemployment compensation program, or if it is determined by the division that the approval of the shared work plan was based, in whole or in part, upon information contained in the plan which was either false or substantially misleading.

9. Each shared work plan approved by the division shall become effective on the first day of the week in which it is approved by the division or on a later date as specified in the shared work plan. Each shared work plan approved by the division shall expire on the last day of the twelfth full calendar month after the effective date of such shared work plan.

10. An employer may modify a shared work plan created under this section to meet changed conditions if the modification conforms to the basic provisions of the shared work plan as originally approved by the division. The employer shall report the changes made to the plan in writing to the division at least seven days before implementing such changes. The division shall reevaluate the shared work plan and may approve the modified shared work plan if it meets the requirements for approval under subsection 4 of this section. The approval of a modified shared work plan shall not, under any circumstances, affect the expiration date originally set for the shared work plan. If modifications cause the shared work plan to fail to meet the requirements for approval, the division shall deny approval of the modifications as provided in subsection 7 of this section.

11. Notwithstanding any other provisions of this chapter, an individual is unemployed for the purposes of this section in any week in which the individual, as an employee in an affected unit, works less than his normal weekly hours of work in accordance with an approved shared work plan in effect for that week.

12. An individual who is otherwise entitled to receive regular unemployment insurance benefits under this chapter shall be eligible to receive shared work benefits with respect to any week in which the division finds that:

(1) The individual is employed as a member of an affected unit subject to a shared work plan that was approved before the week in question and is in effect for that week;

(2) Notwithstanding the provisions of subdivision (2) of subsection 1 of section 288.040, the individual is able to work, available for work and works all available hours with the participating employer;

(3) The individual's normal weekly hours of work have been reduced by at least twenty percent but not more than forty percent, with a corresponding reduction in wages; and

(4) The individual has served a "waiting week" as defined in section 288.030.

13. A waiting week served under the provisions of subdivision (3) of subsection 1 of section 288.040 shall serve to meet the requirements of subdivision (4) of subsection 12 of this section and a waiting week served under the provisions of subdivision (4) of subsection 12 of this section shall serve to meet the requirements of section 288.040. Notwithstanding any other provisions of this chapter, an individual who files a new initial claim during the pendency of the twelve-month period in which a shared work plan is in effect shall serve a waiting week whether or not the individual has served a waiting week under this subsection.

14. The division shall not deny shared work benefits for any week to an otherwise eligible individual by reason of the application of any provision of this chapter that relates to availability

for work, active search for work, or refusal to apply for or accept work with an employer other than the participating employer under the plan.

15. The division shall pay an individual who is eligible for shared work benefits under this section a weekly shared work benefit amount equal to the individual's regular weekly benefit amount for a period of total unemployment less any deductible amounts under this chapter except wages received from any employer, multiplied by the full percentage of reduction in the individual's hours as set forth in the employer's shared work plan. If the shared work benefit amount calculated under this subsection is not a multiple of one dollar, the division shall round the amount so calculated to the next lowest multiple of one dollar. An individual shall be ineligible for shared work benefits for any week in which the individual performs paid work for the participating employer in excess of the reduced hours established under the shared work plan.

16. An individual shall not be entitled to receive shared work benefits and regular unemployment compensation benefits in an aggregate amount which exceeds the maximum total amount of benefits payable to that individual in a benefit year as provided under section 288.038. Notwithstanding any other provisions of this chapter, an individual shall not be eligible to receive shared work benefits for more than twenty-six calendar weeks during the twelve-month period of the shared work plan. No week shall be counted as a week of unemployment for the purposes of this subsection unless it occurs within the twelve-month period of the shared work plan.

17. Notwithstanding any other provision of this chapter, all benefits paid under a shared work plan which are chargeable to the participating employer or any other base period employer of a participating employee shall be charged to the account of the participating employer under the plan.

18. An individual who has received all of the shared work benefits and regular unemployment compensation benefits available in a benefit year is an exhaustee under section 288.062 and is entitled to receive extended benefits under section 288.062 if the individual is otherwise eligible under that section.

SECTION B. EFFECTIVE DATE. — The provisions of this act shall become effective on October 1, 2006.

Approved June 14, 2006

HB 1485 [SCS HCS HB 1485]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes an income tax credit for contributions to qualified pregnancy resource centers and children in crisis centers

AN ACT to repeal sections 135.327 and 135.333, RSMo, and to enact in lieu thereof three new sections relating to tax credits for contributions to centers providing social services.

SECTION

- A. Enacting clause.
- 135.327. Special needs child adoption tax credit — definitions — nonrecurring adoption expenses, amount — individual and business entities tax credit, amount, time for filing application — assignment of tax credit, when — children in crisis tax credit, amount, verification, time for filing — amount of tax credits redeemed, allocation, availability of unclaimed allocations — application procedure — credit denial resulting in balance due — appropriation calculations — rulemaking authority — sunset provision.
- 135.333. Credit exceeding tax due or applied for, not refunded — may be carried forward, time limit — effect of assignment, transfer or sale of tax credit.
- 135.630. Tax credit for contributions to pregnancy resource centers, definitions — amount — limitations — determination of qualifying centers — cumulative amount of credits — apportionment procedure, reapportionment of credits — identity of contributors provided to director, confidentiality — sunset provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 135.327 and 135.333, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 135.327, 135.333, and 135.630, to read as follows:

135.327. SPECIAL NEEDS CHILD ADOPTION TAX CREDIT — DEFINITIONS — NONRECURRING ADOPTION EXPENSES, AMOUNT — INDIVIDUAL AND BUSINESS ENTITIES TAX CREDIT, AMOUNT, TIME FOR FILING APPLICATION — ASSIGNMENT OF TAX CREDIT, WHEN — CHILDREN IN CRISIS TAX CREDIT, AMOUNT, VERIFICATION, TIME FOR FILING — AMOUNT OF TAX CREDITS REDEEMED, ALLOCATION, AVAILABILITY OF UNCLAIMED ALLOCATIONS — APPLICATION PROCEDURE — CREDIT DENIAL RESULTING IN BALANCE DUE — APPROPRIATION CALCULATIONS — RULEMAKING AUTHORITY — SUNSET PROVISION. — 1.

As used in this section, the following terms shall mean:

- (1) "CASA", an entity which receives funding from the court appointed special advocate fund established under section 476.777, RSMo;
- (2) "Child advocacy centers", the regional child assessment centers listed in subsection 2 of section 210.001, RSMo;
- (3) "Contribution", amount of donation to qualified agency;
- (4) "Crisis care", temporary care for children whose age ranges from birth through seventeen years of age whose parents or guardian are experiencing an unexpected and unstable or serious condition that requires immediate action resulting in short term care, usually three to five continuous, uninterrupted days, for children who may be at risk for child abuse, neglect, or in an emergency situation;
- (5) "Department", the department of revenue;
- (6) "Director", the director of the department of revenue;
- (7) "Qualified agency", CASA, child advocacy centers, or a crisis care center;
- (8) "Tax liability", the tax due under chapter 143, RSMo, other than taxes withheld under sections 143.191 to 143.265, RSMo.

2. Any person residing in this state who legally adopts a special needs child on or after January 1, 1988, and before January 1, 2000, shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child adopted that may be applied to taxes due under chapter 143, RSMo. Any business entity providing funds to an employee to enable that employee to legally adopt a special needs child shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child adopted that may be applied to taxes due under such business entity's state tax liability, except that only one ten thousand dollar credit is available for each special needs child that is adopted.

[2.] 3. Any person residing in this state who proceeds in good faith with the adoption of a special needs child on or after January 1, 2000, shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child that may be applied to taxes due under chapter 143, RSMo; provided, however, that beginning on or after July 1, 2004, [a minimum of fifty percent] **two million dollars** of the tax credits allowed shall be allocated for the adoption of special needs children who are residents or wards of residents of this state at the time the adoption is initiated. Any business entity providing funds to an employee to enable that employee to proceed in good faith with the adoption of a special needs child shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child that may be applied to taxes due under such business entity's state tax liability, except that only one ten thousand dollar credit is available for each special needs child that is adopted.

[3.] 4. Individuals and business entities may claim a tax credit for their total nonrecurring adoption expenses in each year that the expenses are incurred. A claim for fifty percent of the credit shall be allowed when the child is placed in the home. A claim for the remaining fifty percent shall be allowed when the adoption is final. The total of these tax credits shall not exceed the maximum limit of ten thousand dollars per child. The cumulative amount of tax credits which may be claimed by taxpayers claiming the credit for nonrecurring adoption expenses in any one fiscal year prior to July 1, 2004, shall not exceed two million dollars [and shall not exceed four million dollars]. **The cumulative amount of tax credits that may be claimed by taxpayers claiming the credit for nonrecurring adoption expenses shall not be less than four million dollars but may be increased by appropriation in any one fiscal year beginning on or after July 1, 2004; provided, however, that [in the first ninety days] by December thirty-first following each July [first], if less than two million dollars in credits have been issued for adoption of special needs children who are not residents or wards of residents of this state at the time the adoption is initiated, the remaining amount of the [four million dollar] cap shall be available for the adoption of special needs children who are residents or wards of residents of this state at the time the adoption is initiated. For all fiscal years beginning on or after July 1, 2006, applications to claim the adoption tax credit for special needs children who are residents or wards of residents of this state at the time the adoption is initiated shall be filed between July first and April fifteenth of each fiscal year. For all fiscal years beginning on or after July 1, 2006, applications to claim the adoption tax credit for special needs children who are not residents or wards of residents of this state at the time the adoption is initiated shall be filed between July first and December thirty-first of each fiscal year.**

[4.] 5. Notwithstanding any provision of law to the contrary, any individual or business entity may assign, transfer or sell tax credits allowed in this section. Any sale of tax credits claimed pursuant to this section shall be at a discount rate of seventy-five percent or greater of the amount sold.

[5.] 6. The director of revenue shall establish a procedure by which, for each fiscal year, the cumulative amount of tax credits authorized in this section is equally apportioned among all taxpayers within the two categories specified in subsection 2 of this section claiming the credit in that fiscal year. To the maximum extent possible, the director of revenue shall establish the procedure described in this subsection in such a manner as to ensure that taxpayers within each

category can claim all the tax credits possible up to the cumulative amount of tax credits available for the fiscal year.

[6. The director of revenue shall submit to the general assembly, by January 1, 2005, and each succeeding year, information by income levels of those individual taxpayers who have qualified and claimed the credit authorized in this section, regardless of whether those taxpayers have assigned, transferred, or sold such credits. The information shall indicate the number of such taxpayers with federal adjusted gross income in the immediately preceding tax year of less than one hundred fifty thousand dollars, of one hundred fifty thousand dollars to and including one hundred ninety thousand dollars, and of more than one hundred ninety thousand dollars.]

7. For all tax years beginning on or after January 1, 2006, a tax credit may be claimed in an amount equal to up to fifty percent of a verified contribution to a qualified agency and shall be named the "children in crisis" tax credit. The minimum amount of any tax credit issued shall not be less than fifty dollars and shall be applied to taxes due under chapter 143, RSMo, excluding sections 143.191 to 143.265, RSMo. A contribution verification shall be issued to the taxpayer by the agency receiving the contribution. Such contribution verification shall include the taxpayer's name, Social Security number, amount of tax credit, amount of contribution, the name and address of the agency receiving the credit, and the date the contribution was made. The tax credit provided under this subsection shall be initially filed in the year in which the verified contribution is made.

8. The cumulative amount of the tax credits redeemed shall not exceed the unclaimed portion of the resident adoption category allocation as described in this section. The director of revenue shall determine the unclaimed portion available. The amount available shall be equally divided among the agencies meeting the definition of qualified agency to be used towards tax credits issued. In the event tax credits claimed under one agency do not total the allocated amount for that agency, the unused portion for that agency will be made available to the remaining agencies as needed. In the event the total amount of tax credits claimed exceeds the amount available, the amount redeemed will be apportioned equally to all eligible taxpayers claiming the credit. After all children in crisis tax credits have been claimed, any remaining unclaimed portion of the reserved allocation for adoptions of special needs children who are residents or wards of residents of this state shall then be made available for adoption tax credit claims of special needs children who are not residents or wards of residents of this state at the time the adoption is initiated.

9. Prior to December thirty-first of each year, the entities listed under the definition of qualified agency shall apply to the department of social services in order to verify their qualified agency status. Upon a determination that the agency is eligible to be a qualified agency, the department of social services shall provide a letter of eligibility to such agency. No later than February first of each year, the department of social services shall provide a list of qualified agencies to the department of revenue. All tax credit applications to claim the children in crisis tax credit shall be filed between July first and April fifteenth of each fiscal year. A taxpayer shall apply for the children in crisis tax credit by attaching a copy of the contribution verification provided by a qualified agency to such taxpayer's income tax return.

10. The tax credits provided under this section shall be subject to the provisions of section 135.333.

11. (1) In the event a credit denial, due to lack of available funds, causes a balance due notice to be generated by the department of revenue, or any other redeeming agency, the taxpayer will not be held liable for any penalty or interest, provided the balance is paid, or approved payment arrangements have been made, within sixty days from the notice of denial.

(2) In the event the balance is not paid within sixty days from the notice of denial, the remaining balance shall be due and payable under the provisions of chapter 143, RSMo.

12. The director shall calculate the level of appropriation necessary to issue all tax credits for non-resident special needs adoptions applied for under this section and provide such calculation to the speaker of the house of representatives, the president pro tempore of the senate, and the director of the office of budget and planning in the office of administration by January thirty-first of each year.

13. The department may promulgate such rules or regulations as are necessary to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

14. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under subsections 7 to 12 of this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

135.333. CREDIT EXCEEDING TAX DUE OR APPLIED FOR, NOT REFUNDED — MAY BE CARRIED FORWARD, TIME LIMIT — EFFECT OF ASSIGNMENT, TRANSFER OR SALE OF TAX CREDIT. — 1. Any amount of tax credit which exceeds the tax due **or which is applied for and otherwise eligible for issuance but not issued** shall not be refunded but may be carried over to any subsequent taxable year, not to exceed a total of five years for which a tax credit may be taken for each child adopted.

2. Tax credits that are assigned, transferred or sold as allowed in section 135.327 may be assigned, transferred or sold in their entirety notwithstanding the taxpayer's tax due.

135.630. TAX CREDIT FOR CONTRIBUTIONS TO PREGNANCY RESOURCE CENTERS, DEFINITIONS — AMOUNT — LIMITATIONS — DETERMINATION OF QUALIFYING CENTERS — CUMULATIVE AMOUNT OF CREDITS — APPORTIONMENT PROCEDURE, REAPPORTIONMENT OF CREDITS — IDENTITY OF CONTRIBUTORS PROVIDED TO DIRECTOR, CONFIDENTIALITY — SUNSET PROVISION. — 1. As used in this section, the following terms mean:

(1) "Contribution", a donation of cash, stock, bonds, or other marketable securities, or real property;

(2) "Director", the director of the department of social services;

(3) "Pregnancy resource center", a nonresidential facility located in this state:

(a) Established and operating primarily to provide assistance to women with crisis pregnancies or unplanned pregnancies by offering pregnancy testing, counseling, emotional and material support, and other similar services to encourage and assist such women in carrying their pregnancies to term; and

(b) Where childbirths are not performed; and

- (c) Which does not perform, induce, or refer for abortions and which does not hold itself out as performing, inducing, or referring for abortions; and
- (d) Which provides direct client services at the facility, as opposed to merely providing counseling or referral services by telephone; and
- (e) Which provides its services at no cost to its clients; and
- (f) When providing medical services, such medical services must be performed in accordance with Missouri statute; and
- (g) Which is exempt from income taxation pursuant to the Internal Revenue Code of 1986, as amended;

(4) "State tax liability", in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapters 143, 147, 148, and 153, RSMo, excluding sections 143.191 to 143.265, RSMo, and related provisions, and in the case of an individual taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, RSMo, excluding sections 143.191 to 143.265, RSMo, and related provisions;

(5) "Taxpayer", a person, firm, a partner in a firm, corporation, or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, RSMo, or an express company which pays an annual tax on its gross receipts in this state pursuant to chapter 153, RSMo, or an individual subject to the state income tax imposed by the provisions of chapter 143, RSMo.

2. For all tax years beginning on or after January 1, 2007, a taxpayer shall be allowed to claim a tax credit against the taxpayer's state tax liability, in an amount equal to fifty percent of the amount such taxpayer contributed to a pregnancy resource center.

3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the taxable year for which the credit is claimed, and such taxpayer shall not be allowed to claim a tax credit in excess of fifty thousand dollars per taxable year. However, any tax credit that cannot be claimed in the taxable year the contribution was made may be carried over to the next four succeeding taxable years until the full credit has been claimed.

4. Except for any excess credit which is carried over pursuant to subsection 3 of this section, a taxpayer shall not be allowed to claim a tax credit unless the total amount of such taxpayer's contribution or contributions to a pregnancy resource center or centers in such taxpayer's taxable year has a value of at least one hundred dollars.

5. The director shall determine, at least annually, which facilities in this state may be classified as pregnancy resource centers. The director may require of a facility seeking to be classified as a pregnancy resource center whatever information which is reasonably necessary to make such a determination. The director shall classify a facility as a pregnancy resource center if such facility meets the definition set forth in subsection 1 of this section.

6. The director shall establish a procedure by which a taxpayer can determine if a facility has been classified as a pregnancy resource center. Pregnancy resource centers shall be permitted to decline a contribution from a taxpayer. The cumulative amount of tax credits which may be claimed by all the taxpayers contributing to pregnancy resource centers in any one fiscal year shall not exceed two million dollars. Tax credits shall be issued in the order contributions are received.

7. The director shall establish a procedure by which, from the beginning of the fiscal year until some point in time later in the fiscal year to be determined by the director, the cumulative amount of tax credits are equally apportioned among all facilities classified as

pregnancy resource centers. If a pregnancy resource center fails to use all, or some percentage to be determined by the director, of its apportioned tax credits during this predetermined period of time, the director may reapportion these unused tax credits to those pregnancy resource centers that have used all, or some percentage to be determined by the director, of their apportioned tax credits during this predetermined period of time. The director may establish more than one period of time and reapportion more than once during each fiscal year. To the maximum extent possible, the director shall establish the procedure described in this subsection in such a manner as to ensure that taxpayers can claim all the tax credits possible up to the cumulative amount of tax credits available for the fiscal year.

8. Each pregnancy resource center shall provide information to the director concerning the identity of each taxpayer making a contribution to the pregnancy resource center who is claiming a tax credit pursuant to this section and the amount of the contribution. The director shall provide the information to the director of revenue. The director shall be subject to the confidentiality and penalty provisions of section 32.057, RSMo, relating to the disclosure of tax information.

9. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:

(1) Any new program authorized under this section shall automatically sunset six years after the effective date of this section, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which a program authorized under this section is sunset.

Approved July 10, 2006

HB 1488 [HB 1488]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Designates a portion of Interstate 55 in Jefferson County as the "Officer Thomas G. Smith Jr. Memorial Highway"

AN ACT to amend chapter 227, RSMo, by adding thereto one new section relating to designation of a memorial highway.

SECTION

A. Enacting clause.

227.379. Officer Thomas G. Smith Jr. Memorial Highway designated for a portion of I-55 in St. Louis County.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 227, RSMo, is amended by adding thereto one new section, to be known as section 227.379, to read as follows:

227.379. OFFICER THOMAS G. SMITH JR. MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF I-55 IN ST. LOUIS COUNTY. — The portion of Interstate 55 in St. Louis County

between Butler Hill Road and Meramec Bottom Road shall be designated the "Officer Thomas G. Smith Jr. Memorial Highway".

Approved June 29, 2006

HB 1491 [HB 1491]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Requires the Family Support Division to encourage applicants or recipients of state medical assistance benefits to seek federal benefits prior to receipt of any state benefits

AN ACT to amend chapter 208, RSMo, by adding thereto one new section relating to medical assistance.

SECTION

A. Enacting clause.

208.143. Veterans medical services, division to determine if applicant for medical assistance is eligible.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 208, RSMo, is amended by adding thereto one new section, to be known as section 208.143, to read as follows:

208.143. VETERANS MEDICAL SERVICES, DIVISION TO DETERMINE IF APPLICANT FOR MEDICAL ASSISTANCE IS ELIGIBLE. — **1.** The family support division shall, in accordance with the provisions of section 208.215, determine whether persons applying for and/or receiving Medicaid benefits are eligible for medical services from the Missouri veterans commission. If an applicant or recipient is eligible for such VA medical services, the division shall urge and encourage the applicant or recipient to receive medical services as a person eligible for VA benefits. Nothing in this section shall be construed as requiring an applicant or recipient of medical assistance benefits to exhaust any VA benefits prior to receipt of any state medical assistance benefits.

2. The family support division shall consult with the Missouri veterans commission regarding a method of determining whether an applicant or recipient of state medical assistance benefits is eligible for VA benefits.

Approved June 13, 2006

HB 1494 [HB 1494]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects to issue land surveying and engineering licenses

AN ACT to repeal section 327.391, RSMo, and to enact in lieu thereof two new sections relating to licensing of engineers and professional land surveyors.

SECTION

- A. Enacting clause.
- 327.391. License, examination requirements.
- 327.392. Professional engineering license issued, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 327.391, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 327.391 and 327.392, to read as follows:

327.391. LICENSE, EXAMINATION REQUIREMENTS. — The board shall upon application issue a license to any [engineer or professional land surveyor who is at least fifty years of age,] **individual** who has at least twenty years of satisfactory experience, and who passes [a written examination or holds a degree at the bachelor's level or higher in engineering or science and passes an oral examination,] **the Fundamentals of Land Surveying examination, the Professional Land Surveying examination, and the Missouri State Specific examination** provided that any such application is accompanied by the required fee.

327.392. PROFESSIONAL ENGINEERING LICENSE ISSUED, WHEN. — **1. The board shall upon application issue a professional engineering license to any individual who holds a degree at the bachelor's level or higher in engineering and who has at least twenty years of satisfactory engineering experience, and who passes part two of the written examination defined in section 327.241, provided that any such application is accompanied by the required fee.**

2. The board shall upon application issue a professional engineering license to any individual who holds a degree from an Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology (ABET, INC.) or its equivalent and a doctorate in engineering from an institution that offers Engineering Accreditation Commission programs, and who passes part two of the written examination defined in section 327.241, provided that any such application is accompanied by the required fee. The doctorate degree must be approved by the board for the candidate to qualify.

Approved June 29, 2006

HB 1509 [SCS HB 1509]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Expands the duties of the State Fire Marshal in the Division of Fire Safety

AN ACT to repeal section 320.202, RSMo, and to enact in lieu thereof one new section relating to the division of fire safety.

SECTION

- A. Enacting clause.
- 320.202. Division of fire safety, created — duties of division and fire marshal — rulemaking authority.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 320.202, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 320.202, to read as follows:

320.202. DIVISION OF FIRE SAFETY, CREATED — DUTIES OF DIVISION AND FIRE MARSHAL — RULEMAKING AUTHORITY. — 1. There is hereby established within the department of public safety a "Division of Fire Safety", which shall have as its chief executive officer the fire marshal appointed under section 320.205. The fire marshal and the division shall be responsible for:

(1) The **voluntary** training of firefighters, investigators, **inspectors**, and [any state] **public or private** employees [performing fire inspections pursuant to state statutes or state licensing requirements] **or volunteers in the field of emergency response, rescue, fire prevention or preparedness;**

(2) Establishing and maintaining a statewide reporting system, which shall, as a minimum, include the records required by section 320.235 and a record of all fires occurring in Missouri showing:

(a) The name of all owners of personal and real property affected by the fire;

(b) The name of each occupant of each building in which a fire occurred;

(c) The total amount of insurance carried by, the total amount of insurance collected by, and the total amount of loss to each owner of property affected by the fire; and

(d) All the facts, statistics and circumstances, including, but not limited to, the origin of the fire, which are or may be determined by any investigation conducted by the division or any local firefighting agency under the laws of this state.

All records maintained under this subdivision shall be open to public inspections during all normal business hours of the division;

(3) Conducting all investigations of fires mandated by sections 320.200 to 320.270;

(4) Conducting all fire inspections required of any private premises in order for any license relating to such private premises to be issued under any licensing law of this state, except those organizations and institutions licensed pursuant to chapters 197 and 198, RSMo;

(5) **Establishing and maintaining a voluntary training and certification program based upon nationally recognized standards. A certification testing fee and recertification fee shall be established by promulgated rules and regulations by the state fire marshal under the provisions of section 536.024, RSMo. Fees collected shall be deposited into the general revenue fund.**

2. The state fire marshal shall exercise and perform all powers and duties necessary to carry out the responsibilities imposed by subsection 1 of this section, including, but not limited to, the power to contract with any person, firm, corporation, state agency, or political subdivision for services necessary to accomplish any of the responsibilities imposed by subsection 1 of this section.

3. **The state fire marshal shall have the authority to promulgate rules and regulations under the provisions of section 536.024, RSMo, to carry out the provisions of this section.**

Approved June 14, 2006

HB 1511 [HCS HB 1511]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Requires the Department of Elementary and Secondary Education to develop standards for early childhood education

AN ACT to amend chapter 161, RSMo, by adding thereto one new section relating to early childhood education.

SECTION

A. Enacting clause.

161.213. High-quality early childhood education standards required — rulemaking authority.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 161, RSMo, is amended by adding thereto one new section, to be known as section 161.213, to read as follows:

161.213. HIGH-QUALITY EARLY CHILDHOOD EDUCATION STANDARDS REQUIRED — RULEMAKING AUTHORITY. — **1.** The department of elementary and secondary education shall develop standards for high-quality early childhood education no later than June 30, 2007. The standards shall be applicable to all public school prekindergarten programs that receive Title I or Missouri preschool project funds.

2. Such standards shall include, but not be limited to, the following principles:

- (1)** Access for all children whose parents or guardians choose to participate;
- (2)** Focus on cognitive, language, physical, and social/emotional development;
- (3)** Assessment of needs of children and their families;
- (4)** Highly qualified and properly certified teachers; and
- (5)** Delivery of comprehensive services supported by strong and accessible technical assistance and professional development.

3. In developing such standards, the department shall involve representatives of the business community, parents as teachers, head start, early childhood start, early childhood special education, Missouri preschool project, first steps, Title I preschools, school district personnel, private providers, and faith-based providers.

4. Unless otherwise prohibited by federal law, public school districts shall not be prohibited from charging tuition and related charges for early childhood education programs.

5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

Approved June 12, 2006

HB 1515 [HCS HB 1515]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Requires physicians to report to the State Board of Registration for the Healing Arts any collaborative practice agreements entered into and authorizes the board to conduct audits for compliance

AN ACT to repeal section 334.104, RSMo, and to enact in lieu thereof one new section relating to collaborative practice.

SECTION

A. Enacting clause.

- 334.104. Collaborative practice arrangements, form, delegation of authority — rules, approval, restrictions — disciplinary actions — notice of collaborative practice or physician assistant agreements to board, when — nurses may provide anesthesia services, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 334.104, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 334.104, to read as follows:

334.104. COLLABORATIVE PRACTICE ARRANGEMENTS, FORM, DELEGATION OF AUTHORITY — RULES, APPROVAL, RESTRICTIONS — DISCIPLINARY ACTIONS — NOTICE OF COLLABORATIVE PRACTICE OR PHYSICIAN ASSISTANT AGREEMENTS TO BOARD, WHEN — NURSES MAY PROVIDE ANESTHESIA SERVICES, WHEN. — 1. A physician may enter into collaborative practice arrangements with registered professional nurses. Collaborative practice arrangements shall be in the form of written agreements, jointly agreed-upon protocols, or standing orders for the delivery of health care services. Collaborative practice arrangements, which shall be in writing, may delegate to a registered professional nurse the authority to administer or dispense drugs and provide treatment as long as the delivery of such health care services is within the scope of practice of the registered professional nurse and is consistent with that nurse's skill, training and competence.

2. Collaborative practice arrangements, which shall be in writing, may delegate to a registered professional nurse the authority to administer, dispense or prescribe drugs and provide treatment if the registered professional nurse is an advanced practice nurse as defined in subdivision (2) of section 335.016, RSMo. Such collaborative practice arrangements shall be in the form of written agreements, jointly agreed-upon protocols or standing orders for the delivery of health care services.

3. The state board of registration for the healing arts pursuant to section 334.125 and the board of nursing pursuant to section 335.036, RSMo, may jointly promulgate rules regulating the use of collaborative practice arrangements. Such rules shall be limited to specifying geographic areas to be covered, the methods of treatment that may be covered by collaborative practice arrangements and the requirements for review of services provided pursuant to collaborative practice arrangements. Any rules relating to dispensing or distribution of medications or devices by prescription or prescription drug orders under this section shall be subject to the approval of the state board of pharmacy. In order to take effect, such rules shall be approved by a majority vote of a quorum of each board. Neither the state board of registration for the healing arts nor the board of nursing may separately promulgate rules relating to collaborative practice arrangements. Such jointly promulgated rules shall be consistent with guidelines for federally funded clinics. The rulemaking authority granted in this subsection shall not extend to collaborative practice arrangements of hospital employees providing inpatient care within hospitals as defined pursuant to chapter 197, RSMo.

4. The state board of registration for the healing arts shall not deny, revoke, suspend or otherwise take disciplinary action against a physician for health care services delegated to a registered professional nurse provided the provisions of this section and the rules promulgated thereunder are satisfied. Upon the written request of a physician subject to a disciplinary action imposed as a result of an agreement between a physician and a registered professional nurse or

registered physician assistant, whether written or not, prior to August 28, 1993, all records of such disciplinary licensure action and all records pertaining to the filing, investigation or review of an alleged violation of this chapter incurred as a result of such an agreement shall be removed from the records of the state board of registration for the healing arts and the division of professional registration and shall not be disclosed to any public or private entity seeking such information from the board or the division. The state board of registration for the healing arts shall take action to correct reports of alleged violations and disciplinary actions as described in this section which have been submitted to the National Practitioner Data Bank. In subsequent applications or representations relating to his medical practice, a physician completing forms or documents shall not be required to report any actions of the state board of registration for the healing arts for which the records are subject to removal under this section.

5. **Within thirty days of any change and on each renewal, the state board of registration for the healing arts shall require every physician to identify whether the physician is engaged in any collaborative practice agreement or physician assistant agreement and also report to the board the name of each licensed professional with whom the physician has entered into such agreement. The board may make this information available to the public. The board shall track the reported information and may routinely conduct random reviews of such agreements to ensure that agreements are carried out for compliance under this chapter.**

6. Notwithstanding anything to the contrary in this section, a registered nurse who has graduated from a school of nurse anesthesia accredited by the Council on Accreditation of Educational Programs of Nurse Anesthesia or its predecessor and has been certified or is eligible for certification as a nurse anesthetist by the Council on Certification of Nurse Anesthetists shall be permitted to provide anesthesia services without a collaborative practice arrangement provided that he or she is under the supervision of an anesthesiologist or other physician, dentist, or podiatrist who is immediately available if needed.

Approved June 29, 2006

HB 1552 [HCS HB 1552]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Allows homeless veterans to use the post office box or voice mail address of a charitable or religious organization on applications for state or federal assistance

AN ACT to amend chapter 42, RSMo, by adding thereto one new section relating to veterans.

SECTION

A. Enacting clause.

42.035. Homeless veterans may use address of charitable or religious organization to receive state or federal assistance, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 42, RSMo, is amended by adding thereto one new section, to be known as section 42.035, to read as follows:

42.035. HOMELESS VETERANS MAY USE ADDRESS OF CHARITABLE OR RELIGIOUS ORGANIZATION TO RECEIVE STATE OR FEDERAL ASSISTANCE, WHEN. — **Notwithstanding any other provision of law a veteran who is homeless may use the post office box or voice mail address of any charitable organization or religious organization as those terms are defined in section 407.453, RSMo, or fraternal or veterans' organization, provided that the legitimate purpose of such organization is to provide charitable, religious, fraternal,**

veterans services and provided that such organization has been providing such legitimate services for a period of at least ten years, as a substitute address on any applications or forms which are necessary to receive any type of assistance from the state or federal government and which require an address or voice mail address, so long as the charitable or religious organization is willing to provide such post office box or voice mail address to the homeless veteran for his or her use.

Approved June 13, 2006

HB 1559 [HCS HB 1559]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Adds grocery and convenience stores to the list of donors that can donate food to a charity or nonprofit organization for distribution without being liable for damages resulting from the food's condition

AN ACT to repeal section 192.081, RSMo, and to enact in lieu thereof one new section relating to donation of food.

SECTION

A. Enacting clause.

192.081. Donation of canned or perishable food — definitions — procedure — immunity from liability, when — department to provide information.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 192.081, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 192.081, to read as follows:

192.081. DONATION OF CANNED OR PERISHABLE FOOD — DEFINITIONS — PROCEDURE — IMMUNITY FROM LIABILITY, WHEN — DEPARTMENT TO PROVIDE INFORMATION. — 1. As used in this section, the following terms mean:

- (1) "Canned food", food that is commercially processed in hermetically sealed containers;
- (2) "Donor", any restaurant, cafeteria, fast food restaurant, delicatessen, or other facility principally engaged in selling food for consumption on the premises, **or any grocery store or convenience store**;
- (3) "Food", any raw, cooked, canned, perishable, or prepared edible substance, ice, beverage, or ingredient used or intended for use in whole or in part for human consumption;
- (4) "Hermetically sealed container", a container that is designed and intended to be secure against the entry of microorganisms and thereby to maintain the commercial sterility of its content after processing;
- (5) "Perishable food", any food having a significant risk of spoilage, loss of value, or loss of palatability within ninety days of the date of packaging;
- (6) "Prepared food", any food prepared, designed, or intended for human consumption including, without limitation, those foods prepared principally from agricultural, dairy, or horticultural produce or with meat, fish, or poultry.

2. Each potential donor, to the greatest extent possible and practicable, may make **surplus or excess canned or perishable food** available to any bona fide charitable or nonprofit

organization, to any representative or volunteer acting on behalf of such organization, to an uncompensated person acting in a philanthropic manner providing services similar to those of such an organization, or to a transporter of any surplus or excess canned or perishable food for use by such organization or person to feed homeless persons or other persons who are in need of food and are otherwise unable to provide food for themselves. In achieving this intent, the following provisions shall apply:

(1) Each donor may contact charitable or nonprofit organizations in the community in which the donor operates in order to provide for the collection by such organizations of any surplus or excess canned food or perishable food from the donor;

(2) Each charitable or nonprofit organization in this state which provides to the community in which it operates food for persons who are in need of food or are otherwise unable to provide food for themselves, or which collects and transports such food to such organizations, shall make every reasonable effort to contact any donors within the organization's area of operations for purposes of collecting any surplus or excess canned food or perishable food for use in providing such services.

3. A good faith donor of any canned or perishable food, apparently fit for human consumption, to a bona fide charitable or nonprofit organization for free distribution shall not be subject to criminal penalty or civil damages arising from the condition of the food, unless an injury is caused by the gross negligence, recklessness, or intentional misconduct of the donor.

4. A bona fide charitable or nonprofit organization, or any representative or volunteer acting on behalf of such organization or an uncompensated person acting in a philanthropic manner providing services similar to those of such an organization or transporter of any surplus or excess canned or perishable food for use by such organization which in good faith accepts, collects, transports, or distributes any canned or perishable food for free distribution and which reasonably inspects the food at the time of the donation and finds the food apparently fit for human consumption shall not be subject to criminal penalty or civil damages arising from the condition of the food, unless an injury is caused by the gross negligence, recklessness, or intentional misconduct of an agent of the charitable or nonprofit organization.

5. The department of health and senior services shall make available information detailing the need of food-recovery programs, the benefit of food-recovery programs, the manner in which such organizations may become involved in food-recovery programs and the food-recovery entities or food banks that exist in the state. This information must be updated annually.

Approved June 6, 2006

HB 1601 [SCS HB 1601]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Exempts research programs and experimental medical procedures for patients with life-threatening emergencies from the informed consent requirement under certain conditions

AN ACT to repeal section 431.064, RSMo, and to enact in lieu thereof one new section relating to emergency medical treatment, with an emergency clause.

SECTION

A. Enacting clause.

- 431.064. Experimental treatment, tests, and drugs, consent to administer by third party — life-threatening emergencies, consent by whom.
B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 431.064, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 431.064, to read as follows:

431.064. EXPERIMENTAL TREATMENT, TESTS, AND DRUGS, CONSENT TO ADMINISTER BY THIRD PARTY — LIFE-THREATENING EMERGENCIES, CONSENT BY WHOM. — 1. When an adult person, because of a medical condition, is treated by a teaching hospital for a medical school accredited by the American Osteopathic Association or the American Medical Association and such person is incapable of giving informed consent for an experimental treatment, test or drug, then such treatment, test or drug may proceed upon obtaining consent of a legal guardian, attorney-in-fact, or a family member in the following order of priority:

(1) Spouse unless the patient has no spouse, or is separated, or the spouse is physically or mentally incapable of giving consent, or the spouse's whereabouts is unknown or the spouse is overseas;

(2) Adult child;

(3) Parent;

(4) Brother or sister;

(5) Relative by blood or marriage.

2. Nothing in this section shall authorize such legal guardian, attorney-in-fact, or family member to consent to treatment in contravention to such incapacitated person's expressed permission regarding such treatment.

3. **In a life-threatening emergency, consent of such an incapacitated person to any research program or experimental procedure shall not be required when the institutional review board responsible for the review, approval, and continuing review of the research activity has approved both the research activity and a waiver of informed consent and has both found and documented that the requirements for an exception from informed consent requirements for emergency research, as provided under Part 50 of Title 21 or Part 46 of Title 45 of the Code of Federal Regulations, as amended, have been satisfied.**

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure proper treatment of persons with life-threatening emergencies, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved June 12, 2006

HB 1617 [HCS HB 1617 & 1374]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the restrictions regarding the liability of a landowner who invites or permits persons to use the land for recreational purposes to include state-administered recreational access programs

AN ACT to repeal section 537.347, RSMo, and to enact in lieu thereof one new section relating to landowner liability.

SECTION

A. Enacting clause.

537.347. Landowner directly or indirectly invites or permits persons on land for recreation, effect.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 537.347, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 537.347, to read as follows:

537.347. LANDOWNER DIRECTLY OR INDIRECTLY INVITES OR PERMITS PERSONS ON LAND FOR RECREATION, EFFECT. — Except as provided in sections 537.345 to 537.348, an owner of land who directly or indirectly invites or permits any person to enter his **or her** land for recreational use, without charge, whether or not the land is posted, **or who directly or indirectly invites or permits any person to enter his or her land for recreational use in compliance with a state-administered recreational access program**, does not thereby:

- (1) Extend any assurance that the premises are safe for any purpose;
- (2) Confer upon such person the status of an invitee, or any other status requiring of the owner a duty of special or reasonable care;
- (3) Assume responsibility for or incur liability for any injury to such person or property caused by any natural or artificial condition, structure or personal property on the premises; or
- (4) Assume responsibility for any damage or injury to any other person or property caused by an act or omission of such person.

Approved June 9, 2006

HB 1687 [HB 1687]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Allows unused or unaccepted drugs donated to the Prescription Drug Repository Program to be distributed to out-of-state charitable repositories

AN ACT to repeal sections 196.973, 196.979, and 196.981, RSMo, and to enact in lieu thereof three new sections relating to unused prescription drugs, with penalty provisions.

SECTION

A. Enacting clause.

196.973. Definitions.

196.979. Donation of prescription drugs to the program, procedure — distribution to out-of-state charitable repositories, when.

196.981. Immunity from civil or criminal liability, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 196.973, 196.979, and 196.981, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 196.973, 196.979, and 196.981, to read as follows:

196.973. DEFINITIONS. — As used in sections 196.970 to 196.984, the following terms shall mean:

(1) "Health care professional", any of the following persons licensed and authorized to prescribe and dispense drugs and to provide medical, dental, or other health-related diagnoses, care, or treatment:

- (a) A licensed physician or surgeon;
- (b) A registered nurse or licensed practical nurse;
- (c) A physician assistant;
- (d) A dentist;
- (e) A dental hygienist;
- (f) An optometrist;
- (g) A pharmacist; and
- (h) A podiatrist;

(2) "Hospital", the same meaning as such term is defined in section 197.020, RSMo;

(3) "Nonprofit clinic", a facility organized as not for profit in which advice, counseling, diagnosis, treatment, surgery, care, or services relating to the preservation or maintenance of health are provided on an outpatient basis for a period of less than twenty-four consecutive hours to persons not residing or confined at such facility;

(4) "Out-of-state charitable repository", any of the following:

(a) **A bona fide charitable, religious, or nonprofit organization, licensed or registered in this state as an out-of-state wholesale drug distributor under sections 338.210 to 338.370, RSMo, and that otherwise qualifies as an exempt organization under section 501(c)(3) of Title 26, United States Code, as amended; or**

(b) **A foreign medical aid mission group that distributes pharmaceuticals and healthcare supplies to needy persons abroad;**

(5) "Prescription drug", a drug which may be dispensed only upon prescription by an authorized prescriber and which is approved for safety and effectiveness as a prescription drug under Section 505 or 507 of the Federal Food, Drug, and Cosmetic Act.

196.979. DONATION OF PRESCRIPTION DRUGS TO THE PROGRAM, PROCEDURE — DISTRIBUTION TO OUT-OF-STATE CHARITABLE REPOSITORIES, WHEN. — 1. Any person, including but not limited to a prescription drug manufacturer or health care facility, may donate prescription drugs to the prescription drug repository program. The drugs shall be donated at a pharmacy, hospital, or nonprofit clinic that elects to participate in the prescription drug repository program and meets the criteria for participation established by rule of the department pursuant to section 196.984. Participation in the program by pharmacies, hospitals, and nonprofit clinics shall be voluntary. Nothing in sections 196.970 to 196.984 shall require any pharmacy, hospital, or nonprofit clinic to participate in the program.

2. A pharmacy, hospital, or nonprofit clinic which meets the eligibility requirements established in section 196.984 may dispense prescription drugs donated under the program to persons who are residents of Missouri and who meet the eligibility requirements of the program, or to other governmental entities and nonprofit private entities to be dispensed to persons who meet the eligibility requirements of the program. A prescription drug shall be dispensed only pursuant to a prescription issued by a health care professional who is authorized by statute to prescribe drugs. A pharmacy, hospital, or nonprofit clinic which accepts donated prescription drugs shall comply with all applicable federal and state laws dealing with the storage and distribution of dangerous drugs and shall inspect all prescription drugs prior to dispensing the prescription drugs to determine that they are not adulterated as described in section 196.095. The pharmacy, hospital, or nonprofit clinic may charge persons receiving donated prescription drugs a handling fee, not to exceed a maximum of two hundred percent of the Medicaid dispensing fee, established by rule of the department promulgated pursuant to section 196.984. Prescription drugs donated to the program shall not be resold. Any individual who knowingly resells any

donated prescription drugs pursuant to sections 196.970 to 196.984 shall be guilty of a class D felony.

3. Drugs donated under this section that are not used or accepted by any pharmacy, hospital, or nonprofit clinic in this state may be distributed to out-of-state charitable repositories for use outside of this state. Such donated drugs may be repackaged in a manner appropriate for distribution by participating pharmacies, hospitals, and nonprofit clinics.

196.981. IMMUNITY FROM CIVIL OR CRIMINAL LIABILITY, WHEN. — 1. The following persons and entities when acting in good faith shall not be subject to criminal or civil liability for injury, death, or loss to person or property, or professional disciplinary action for matters related to donating, accepting, or dispensing prescription drugs under the prescription drug repository program:

- (1) The department of health and senior services;
- (2) The director of the department of health and senior services;
- (3) Any prescription drug manufacturer, governmental entity, or person donating prescription drugs to the program;
- (4) Any pharmacy, hospital, nonprofit clinic, **out-of-state charitable repository**, or health care professional that prescribes, accepts or dispenses prescription drugs under the program; and
- (5) Any pharmacy, hospital, [or] nonprofit clinic, **or out-of-state charitable repository** that employs or has a hospital medical staff affiliation with a health care professional who accepts or dispenses prescription drugs under the program.

2. A prescription drug manufacturer shall not, in the absence of bad faith, be subject to criminal or civil liability for injury, death, or loss to person or property for matters related to the donation, acceptance, or dispensing of a prescription drug manufactured by the prescription drug manufacturer that is donated by any person under the program, including but not limited to liability for failure to transfer or communicate product or consumer information or the expiration date of the donated prescription drug.

Approved July 12, 2006

HB 1688 [HB 1688]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Excludes any sales tax imposed by Jackson County for the purpose of sports stadium improvement from the additional 50% economic activity tax revenue allocation for tax increment financing projects

AN ACT to repeal section 99.845, RSMo, and to enact in lieu thereof one new section relating to the sole purpose of excluding a sales tax imposed by Jackson County for sports stadium improvement from economic activity tax revenues for tax increment finance projects.

SECTION

- A. Enacting clause.
- 99.845. Tax increment financing adoption — division of ad valorem taxes — payments in lieu of tax, deposit, inclusion and exclusion of current equalized assessed valuation for certain purposes, when — other taxes included, amount — supplemental tax increment financing fund established, disbursement.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 99.845, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 99.845, to read as follows:

99.845. TAX INCREMENT FINANCING ADOPTION — DIVISION OF AD VALOREM TAXES — PAYMENTS IN LIEU OF TAX, DEPOSIT, INCLUSION AND EXCLUSION OF CURRENT EQUALIZED ASSESSED VALUATION FOR CERTAIN PURPOSES, WHEN — OTHER TAXES INCLUDED, AMOUNT — SUPPLEMENTAL TAX INCREMENT FINANCING FUND ESTABLISHED, DISBURSEMENT. — 1. A municipality, either at the time a redevelopment project is approved or, in the event a municipality has undertaken acts establishing a redevelopment plan and redevelopment project and has designated a redevelopment area after the passage and approval of sections 99.800 to 99.865 but prior to August 13, 1982, which acts are in conformance with the procedures of sections 99.800 to 99.865, may adopt tax increment allocation financing by passing an ordinance providing that after the total equalized assessed valuation of the taxable real property in a redevelopment project exceeds the certified total initial equalized assessed valuation of the taxable real property in the redevelopment project, the ad valorem taxes, and payments in lieu of taxes, if any, arising from the levies upon taxable real property in such redevelopment project by taxing districts and tax rates determined in the manner provided in subsection 2 of section 99.855 each year after the effective date of the ordinance until redevelopment costs have been paid shall be divided as follows:

(1) That portion of taxes, penalties and interest levied upon each taxable lot, block, tract, or parcel of real property which is attributable to the initial equalized assessed value of each such taxable lot, block, tract, or parcel of real property in the area selected for the redevelopment project shall be allocated to and, when collected, shall be paid by the county collector to the respective affected taxing districts in the manner required by law in the absence of the adoption of tax increment allocation financing;

(2) (a) Payments in lieu of taxes attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract, or parcel of real property in the area selected for the redevelopment project and any applicable penalty and interest over and above the initial equalized assessed value of each such unit of property in the area selected for the redevelopment project shall be allocated to and, when collected, shall be paid to the municipal treasurer who shall deposit such payment in lieu of taxes into a special fund called the "Special Allocation Fund" of the municipality for the purpose of paying redevelopment costs and obligations incurred in the payment thereof. Payments in lieu of taxes which are due and owing shall constitute a lien against the real estate of the redevelopment project from which they are derived and shall be collected in the same manner as the real property tax, including the assessment of penalties and interest where applicable. The municipality may, in the ordinance, pledge the funds in the special allocation fund for the payment of such costs and obligations and provide for the collection of payments in lieu of taxes, the lien of which may be foreclosed in the same manner as a special assessment lien as provided in section 88.861, RSMo. No part of the current equalized assessed valuation of each lot, block, tract, or parcel of property in the area selected for the redevelopment project attributable to any increase above the total initial equalized assessed value of such properties shall be used in calculating the general state school aid formula provided for in section 163.031, RSMo, until such time as all redevelopment costs have been paid as provided for in this section and section 99.850;

(b) Notwithstanding any provisions of this section to the contrary, for purposes of determining the limitation on indebtedness of local government pursuant to article VI, section 26(b) of the Missouri Constitution, the current equalized assessed value of the property in an area selected for redevelopment attributable to the increase above the total initial equalized assessed valuation shall be included in the value of taxable tangible property as shown on the last completed assessment for state or county purposes;

(c) The county assessor shall include the current assessed value of all property within the taxing district in the aggregate valuation of assessed property entered upon the assessor's book

and verified pursuant to section 137.245, RSMo, and such value shall be utilized for the purpose of the debt limitation on local government pursuant to article VI, section 26(b) of the Missouri Constitution;

(3) For purposes of this section, "levies upon taxable real property in such redevelopment project by taxing districts" shall not include the blind pension fund tax levied under the authority of article III, section 38(b) of the Missouri Constitution, or the merchants' and manufacturers' inventory replacement tax levied under the authority of subsection 2 of section 6 of article X of the Missouri Constitution, except in redevelopment project areas in which tax increment financing has been adopted by ordinance pursuant to a plan approved by vote of the governing body of the municipality taken after August 13, 1982, and before January 1, 1998.

2. In addition to the payments in lieu of taxes described in subdivision (2) of subsection 1 of this section, for redevelopment plans and projects adopted or redevelopment projects approved by ordinance after July 12, 1990, and prior to August 31, 1991, fifty percent of the total additional revenue from taxes, penalties and interest imposed by the municipality, or other taxing districts, which are generated by economic activities within the area of the redevelopment project over the amount of such taxes generated by economic activities within the area of the redevelopment project in the calendar year prior to the adoption of the redevelopment project by ordinance, while tax increment financing remains in effect, but excluding taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to section 70.500, RSMo, licenses, fees or special assessments other than payments in lieu of taxes and any penalty and interest thereon, or, effective January 1, 1998, taxes levied pursuant to section 94.660, RSMo, for the purpose of public transportation, shall be allocated to, and paid by the local political subdivision collecting officer to the treasurer or other designated financial officer of the municipality, who shall deposit such funds in a separate segregated account within the special allocation fund. Any provision of an agreement, contract or covenant entered into prior to July 12, 1990, between a municipality and any other political subdivision which provides for an appropriation of other municipal revenues to the special allocation fund shall be and remain enforceable.

3. In addition to the payments in lieu of taxes described in subdivision (2) of subsection 1 of this section, for redevelopment plans and projects adopted or redevelopment projects approved by ordinance after August 31, 1991, fifty percent of the total additional revenue from taxes, penalties and interest which are imposed by the municipality or other taxing districts, and which are generated by economic activities within the area of the redevelopment project over the amount of such taxes generated by economic activities within the area of the redevelopment project in the calendar year prior to the adoption of the redevelopment project by ordinance, while tax increment financing remains in effect, but excluding personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to section 70.500, RSMo, [or effective January 1, 1998,] taxes levied for the purpose of public transportation pursuant to section 94.660, RSMo, licenses, fees or special assessments other than payments in lieu of taxes and penalties and interest thereon, **or any sales tax imposed by a county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants, for the purpose of sports stadium improvement**, shall be allocated to, and paid by the local political subdivision collecting officer to the treasurer or other designated financial officer of the municipality, who shall deposit such funds in a separate segregated account within the special allocation fund.

4. Beginning January 1, 1998, for redevelopment plans and projects adopted or redevelopment projects approved by ordinance and which have complied with subsections 4 to 12 of this section, in addition to the payments in lieu of taxes and economic activity taxes described in subsections 1, 2 and 3 of this section, up to fifty percent of the new state revenues, as defined in subsection 8 of this section, estimated for the businesses within the project area and identified by the municipality in the application required by subsection 10 of this section, over and above the amount of such taxes reported by businesses within the project area as identified

by the municipality in their application prior to the approval of the redevelopment project by ordinance, while tax increment financing remains in effect, may be available for appropriation by the general assembly as provided in subsection 10 of this section to the department of economic development supplemental tax increment financing fund, from the general revenue fund, for distribution to the treasurer or other designated financial officer of the municipality with approved plans or projects.

5. The treasurer or other designated financial officer of the municipality with approved plans or projects shall deposit such funds in a separate segregated account within the special allocation fund established pursuant to section 99.805.

6. No transfer from the general revenue fund to the Missouri supplemental tax increment financing fund shall be made unless an appropriation is made from the general revenue fund for that purpose. No municipality shall commit any state revenues prior to an appropriation being made for that project. For all redevelopment plans or projects adopted or approved after December 23, 1997, appropriations from the new state revenues shall not be distributed from the Missouri supplemental tax increment financing fund into the special allocation fund unless the municipality's redevelopment plan ensures that one hundred percent of payments in lieu of taxes and fifty percent of economic activity taxes generated by the project shall be used for eligible redevelopment project costs while tax increment financing remains in effect. This account shall be separate from the account into which payments in lieu of taxes are deposited, and separate from the account into which economic activity taxes are deposited.

7. In order for the redevelopment plan or project to be eligible to receive the revenue described in subsection 4 of this section, the municipality shall comply with the requirements of subsection 10 of this section prior to the time the project or plan is adopted or approved by ordinance. The director of the department of economic development and the commissioner of the office of administration may waive the requirement that the municipality's application be submitted prior to the redevelopment plan's or project's adoption or the redevelopment plan's or project's approval by ordinance.

8. For purposes of this section, "new state revenues" means:

(1) The incremental increase in the general revenue portion of state sales tax revenues received pursuant to section 144.020, RSMo, excluding sales taxes that are constitutionally dedicated, taxes deposited to the school district trust fund in accordance with section 144.701, RSMo, sales and use taxes on motor vehicles, trailers, boats and outboard motors and future sales taxes earmarked by law. In no event shall the incremental increase include any amounts attributable to retail sales unless the municipality or authority has proven to the Missouri development finance board and the department of economic development and such entities have made a finding that the sales tax increment attributable to retail sales is from new sources which did not exist in the state during the baseline year. The incremental increase in the general revenue portion of state sales tax revenues for an existing or relocated facility shall be the amount that current state sales tax revenue exceeds the state sales tax revenue in the base year as stated in the redevelopment plan as provided in subsection 10 of this section; or

(2) The state income tax withheld on behalf of new employees by the employer pursuant to section 143.221, RSMo, at the business located within the project as identified by the municipality. The state income tax withholding allowed by this section shall be the municipality's estimate of the amount of state income tax withheld by the employer within the redevelopment area for new employees who fill new jobs directly created by the tax increment financing project.

9. Subsection 4 of this section shall apply only to blighted areas located in enterprise zones, pursuant to sections 135.200 to 135.256, RSMo, blighted areas located in federal empowerment zones, or to blighted areas located in central business districts or urban core areas of cities which districts or urban core areas at the time of approval of the project by ordinance, provided that the enterprise zones, federal empowerment zones or blighted areas contained one or more buildings at least fifty years old; and

(1) Suffered from generally declining population or property taxes over the twenty-year period immediately preceding the area's designation as a project area by ordinance; or

(2) Was a historic hotel located in a county of the first classification without a charter form of government with a population according to the most recent federal decennial census in excess of one hundred fifty thousand and containing a portion of a city with a population according to the most recent federal decennial census in excess of three hundred fifty thousand.

10. The initial appropriation of up to fifty percent of the new state revenues authorized pursuant to subsections 4 and 5 of this section shall not be made to or distributed by the department of economic development to a municipality until all of the following conditions have been satisfied:

(1) The director of the department of economic development or his or her designee and the commissioner of the office of administration or his or her designee have approved a tax increment financing application made by the municipality for the appropriation of the new state revenues. The municipality shall include in the application the following items in addition to the items in section 99.810:

(a) The tax increment financing district or redevelopment area, including the businesses identified within the redevelopment area;

(b) The base year of state sales tax revenues or the base year of state income tax withheld on behalf of existing employees, reported by existing businesses within the project area prior to approval of the redevelopment project;

(c) The estimate of the incremental increase in the general revenue portion of state sales tax revenue or the estimate for the state income tax withheld by the employer on behalf of new employees expected to fill new jobs created within the redevelopment area after redevelopment;

(d) The official statement of any bond issue pursuant to this subsection after December 23, 1997;

(e) An affidavit that is signed by the developer or developers attesting that the provisions of subdivision (1) of section 99.810 have been met and specifying that the redevelopment area would not be reasonably anticipated to be developed without the appropriation of the new state revenues;

(f) The cost-benefit analysis required by section 99.810 includes a study of the fiscal impact on the state of Missouri; and

(g) The statement of election between the use of the incremental increase of the general revenue portion of the state sales tax revenues or the state income tax withheld by employers on behalf of new employees who fill new jobs created in the redevelopment area;

(h) The name, street and mailing address, and phone number of the mayor or chief executive officer of the municipality;

(i) The street address of the development site;

(j) The three-digit North American Industry Classification System number or numbers characterizing the development project;

(k) The estimated development project costs;

(l) The anticipated sources of funds to pay such development project costs;

(m) Evidence of the commitments to finance such development project costs;

(n) The anticipated type and term of the sources of funds to pay such development project costs;

(o) The anticipated type and terms of the obligations to be issued;

(p) The most recent equalized assessed valuation of the property within the development project area;

(q) An estimate as to the equalized assessed valuation after the development project area is developed in accordance with a development plan;

(r) The general land uses to apply in the development area;

(s) The total number of individuals employed in the development area, broken down by full-time, part-time, and temporary positions;

(t) The total number of full-time equivalent positions in the development area;

(u) The current gross wages, state income tax withholdings, and federal income tax withholdings for individuals employed in the development area;

(v) The total number of individuals employed in this state by the corporate parent of any business benefiting from public expenditures in the development area, and all subsidiaries thereof, as of December thirty-first of the prior fiscal year, broken down by full-time, part-time, and temporary positions;

(w) The number of new jobs to be created by any business benefiting from public expenditures in the development area, broken down by full-time, part-time, and temporary positions;

(x) The average hourly wage to be paid to all current and new employees at the project site, broken down by full-time, part-time, and temporary positions;

(y) For project sites located in a metropolitan statistical area, as defined by the federal Office of Management and Budget, the average hourly wage paid to nonmanagerial employees in this state for the industries involved at the project, as established by the United States Bureau of Labor Statistics;

(z) For project sites located outside of metropolitan statistical areas, the average weekly wage paid to nonmanagerial employees in the county for industries involved at the project, as established by the United States Department of Commerce;

(aa) A list of other community and economic benefits to result from the project;

(bb) A list of all development subsidies that any business benefiting from public expenditures in the development area has previously received for the project, and the name of any other granting body from which such subsidies are sought;

(cc) A list of all other public investments made or to be made by this state or units of local government to support infrastructure or other needs generated by the project for which the funding pursuant to this section is being sought;

(dd) A statement as to whether the development project may reduce employment at any other site, within or without the state, resulting from automation, merger, acquisition, corporate restructuring, relocation, or other business activity;

(ee) A statement as to whether or not the project involves the relocation of work from another address and if so, the number of jobs to be relocated and the address from which they are to be relocated;

(ff) A list of competing businesses in the county containing the development area and in each contiguous county;

(gg) A market study for the development area;

(hh) A certification by the chief officer of the applicant as to the accuracy of the development plan;

(2) The methodologies used in the application for determining the base year and determining the estimate of the incremental increase in the general revenue portion of the state sales tax revenues or the state income tax withheld by employers on behalf of new employees who fill new jobs created in the redevelopment area shall be approved by the director of the department of economic development or his or her designee and the commissioner of the office of administration or his or her designee. Upon approval of the application, the director of the department of economic development or his or her designee and the commissioner of the office of administration or his or her designee shall issue a certificate of approval. The department of economic development may request the appropriation following application approval;

(3) The appropriation shall be either a portion of the estimate of the incremental increase in the general revenue portion of state sales tax revenues in the redevelopment area or a portion of the estimate of the state income tax withheld by the employer on behalf of new employees who fill new jobs created in the redevelopment area as indicated in the municipality's application, approved by the director of the department of economic development or his or her designee and the commissioner of the office of administration or his or her designee. At no time shall the

annual amount of the new state revenues approved for disbursements from the Missouri supplemental tax increment financing fund exceed thirty-two million dollars;

(4) Redevelopment plans and projects receiving new state revenues shall have a duration of up to fifteen years, unless prior approval for a longer term is given by the director of the department of economic development or his or her designee and the commissioner of the office of administration or his or her designee; except that, in no case shall the duration exceed twenty-three years.

11. In addition to the areas authorized in subsection 9 of this section, the funding authorized pursuant to subsection 4 of this section shall also be available in a federally approved levee district, where construction of a levee begins after December 23, 1997, and which is contained within a county of the first classification without a charter form of government with a population between fifty thousand and one hundred thousand inhabitants which contains all or part of a city with a population in excess of four hundred thousand or more inhabitants.

12. There is hereby established within the state treasury a special fund to be known as the "Missouri Supplemental Tax Increment Financing Fund", to be administered by the department of economic development. The department shall annually distribute from the Missouri supplemental tax increment financing fund the amount of the new state revenues as appropriated as provided in the provisions of subsections 4 and 5 of this section if and only if the conditions of subsection 10 of this section are met. The fund shall also consist of any gifts, contributions, grants or bequests received from federal, private or other sources. Moneys in the Missouri supplemental tax increment financing fund shall be disbursed per project pursuant to state appropriations.

13. Redevelopment project costs may include, at the prerogative of the state, the portion of salaries and expenses of the department of economic development and the department of revenue reasonably allocable to each redevelopment project approved for disbursements from the Missouri supplemental tax increment financing fund for the ongoing administrative functions associated with such redevelopment project. Such amounts shall be recovered from new state revenues deposited into the Missouri supplemental tax increment financing fund created under this section.

14. For redevelopment plans or projects approved by ordinance that result in net new jobs from the relocation of a national headquarters from another state to the area of the redevelopment project, the economic activity taxes and new state tax revenues shall not be based on a calculation of the incremental increase in taxes as compared to the base year or prior calendar year for such redevelopment project, rather the incremental increase shall be the amount of total taxes generated from the net new jobs brought in by the national headquarters from another state. In no event shall this subsection be construed to allow a redevelopment project to receive an appropriation in excess of up to fifty percent of the new state revenues.

Approved March 16, 2006

HB 1698 [CCS SS SCS HCS HB 1698, 1236, 995, 1362 & 1290]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding sexual offenders

AN ACT to repeal sections 43.650, 217.735, 544.671, 547.170, 556.061, 558.018, 559.100, 559.106, 566.010, 566.020, 566.030, 566.032, 566.060, 566.062, 566.067, 566.083,

566.086, 566.090, 566.145, 566.147, 566.151, 568.020, 573.010, 575.195, 589.400, 589.402, 589.403, 589.405, 589.407, 589.414, 589.425, 600.042, 632.484, 632.489, 632.495, 632.498, 632.501, 632.504, and 632.507, RSMo, and to enact in lieu thereof fifty-three new sections relating to sexual offenders, with penalty provisions and an emergency clause.

SECTION

- A. Enacting clause.
 - 43.533. Toll-free number for information on registered sexual offenders, contents, procedure, publication — rulemaking authority.
 - 43.650. Internet site to be maintained, registered sex offender search — confidentiality, release of information, when.
 - 188.023. Reports of rape or under age eighteen sexual abuse, required to report, how.
 - 217.735. Lifetime supervision required for certain offenders — electronic monitoring — termination at age sixty-five permitted, when — rulemaking authority.
 - 351.609. Records possessed by corporations providing certain services to the public, definitions — applicability of section — records provided under subpoena or warrant — accelerated or extended time for production of records — motion to quash — authenticity verified — Missouri corporations — no cause of action, when.
 - 489.042. Authority to require registered sexual offenders to provide access to personal home computer.
 - 544.671. Certain defendants not entitled to bail for certain offenses.
 - 547.170. Prisoner, when let to bail.
 - 556.061. Code definitions.
 - 558.018. Persistent sexual offender, predatory sexual offender, defined, extension of term, when, minimum term.
 - 559.100. Circuit courts, power to place on probation or parole — revocation — conditions — restitution.
 - 559.106. Lifetime supervision of certain sexual offenders — electronic monitoring — termination at age sixty-five permitted, when.
 - 566.010. Chapter 566 and chapter 568 definitions.
 - 566.020. Mistake as to incapacity or age — consent not a defense, when.
 - 566.030. Forcible rape and attempted forcible rape, penalties — suspended sentences not granted, when.
 - 566.032. Statutory rape, attempt, first degree, penalties.
 - 566.060. Forcible sodomy, penalties — suspended sentence not granted, when.
 - 566.062. Statutory sodomy, attempt, first degree, penalties.
 - 566.067. Child molestation, first degree, penalties.
 - 566.083. Sexual misconduct involving a child, penalty — applicability of section — affirmative defense not allowed, when.
 - 566.086. Sexual contact with a student while on public school property.
 - 566.090. Sexual misconduct, first degree, penalties.
 - 566.145. Sexual contact with prisoner or offender — definitions — penalty — consent not a defense.
 - 566.147. Certain offenders not to reside within one thousand feet of a school or child-care facility.
 - 566.149. Certain offenders not to be present within five hundred feet of school property, exception — permission required for parents or guardians who are offenders, procedure — penalty.
 - 566.151. Enticement of a child, penalties.
 - 566.213. Sexual trafficking of a child under age twelve — affirmative defense not allowed, when — penalty.
 - 566.265. Penalties for violations by corporations or businesses.
 - 567.085. Promoting travel for prostitution — penalty.
 - 567.087. Prohibitions on travel agencies or tour operators — rebuttable presumption, advertisements.
 - 567.089. Offering travel for purpose of prostitution prohibited — penalties.
 - 568.020. Incest.
 - 573.010. Definitions.
 - 575.159. Aiding a sexual offender — penalty — applicability of section.
 - 575.195. Escape from commitment, detention, or conditional release — penalty.
 - 589.400. Registration of certain offenders with chief law officers of county of residence — time limitation — cities may request copy of registration — fees — automatic removal from registry — petitions for removal — procedure, notice, denial of petition — higher education students and workers — persons removed.
 - 589.402. Internet search capability of registered sex offenders to be maintained — information to be made available — newspaper publication.
 - 589.403. Correctional facility or mental health institution releasing on parole or discharge, official in charge, duties.
 - 589.405. Court's duties upon release of sexual offender.
 - 589.407. Registration, required information — substantiating accuracy of information.
 - 589.414. Registrant's duties on change of address — time limitations for certain notifications.
 - 589.425. Failure to register, penalty — subsequent violations, penalty.
 - 600.042. Director's duties and powers — cases for which representation is authorized — rules, procedure — discretionary powers of defender system — bar members appointment authorized.
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- 632.484. Detention and evaluation of persons alleged to be sexually violent predators — duties of attorney general and department of mental health — expiration date.
- 632.489. Probable cause determined — sexually violent predator taken into custody, when — hearing, procedure — examination by department of mental health.
- 632.495. Unanimous verdict required — offender committed to custody of department of mental health, when — release, when — mistrial procedures.
- 632.498. Annual examination of mental condition, not required, when — annual review by the court — petition for release, hearing, procedures (when director disapproves).
- 632.501. Petition for release — hearing (when director approves).
- 632.504. Subsequent petitions for release — approval or denial procedures.
- 632.505. Conditional release — interagency agreements for supervision, plan — court review of plan, order, conditions — copy of order — continuing control and care — modifications — violations — agreements with private entities — fee, rulemaking authority — escape.
- 632.507. Attorney general to inform victims — notification of proceedings.
- 650.120. Grants to fund investigations of Internet sex crimes against children — panel, membership, terms — local matching amounts — priorities — training standards — information sharing — panel recommendation — sunset provision.
 - 1. Notification of monitoring to highway patrol — information entered into MULES and sexual offender registry.
 - B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 43.650, 217.735, 544.671, 547.170, 556.061, 558.018, 559.100, 559.106, 566.010, 566.020, 566.030, 566.032, 566.060, 566.062, 566.067, 566.083, 566.086, 566.090, 566.145, 566.147, 566.151, 568.020, 573.010, 575.195, 589.400, 589.402, 589.403, 589.405, 589.407, 589.414, 589.425, 600.042, 632.484, 632.489, 632.495, 632.498, 632.501, 632.504, and 632.507, RSMo, are repealed and fifty-three new sections enacted in lieu thereof, to be known as sections 43.533, 43.650, 188.023, 217.735, 351.609, 489.042, 544.671, 547.170, 556.061, 558.018, 559.100, 559.106, 566.010, 566.020, 566.030, 566.032, 566.060, 566.062, 566.067, 566.083, 566.086, 566.090, 566.145, 566.147, 566.149, 566.151, 566.213, 566.265, 567.085, 567.087, 567.089, 568.020, 573.010, 575.159, 575.195, 589.400, 589.402, 589.403, 589.405, 589.407, 589.414, 589.425, 600.042, 632.484, 632.489, 632.495, 632.498, 632.501, 632.504, 632.505, 632.507, 650.120, and 1, to read as follows:

43.533. TOLL-FREE NUMBER FOR INFORMATION ON REGISTERED SEXUAL OFFENDERS, CONTENTS, PROCEDURE, PUBLICATION — RULEMAKING AUTHORITY. — 1. The highway patrol shall, subject to appropriation, operate a toll-free telephone number in order to disseminate registration information provided by individuals who are required to register under sections 589.400 to 589.425, RSMo, and receive information from persons regarding the residency of a registered sexual offender. The information available via the telephone number shall include only information that offenders are required to provide under section 589.407, RSMo. When the highway patrol provides such information regarding a sexual offender, the patrol personnel shall advise the person making the inquiry that positive identification of a person believed to be a sexual offender cannot be established unless a fingerprint comparison is made, and that it is illegal to use such information regarding a registered sexual offender to facilitate the commission of a crime. The toll-free telephone number shall be published on the highway patrol's sexual offender registry website maintained under section 43.650.

2. The patrol shall promulgate rules to effect the enforcement of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held

unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

43.650. INTERNET SITE TO BE MAINTAINED, REGISTERED SEX OFFENDER SEARCH — CONFIDENTIALITY, RELEASE OF INFORMATION, WHEN. — 1. The patrol shall, subject to appropriation, maintain a web page on the Internet which shall be open to the public and shall include a registered sexual offender search capability.

2. The registered sexual offender search shall make it possible for any person using the Internet to search for and find the information specified in [subdivisions (1) to (4) of] subsection 4 of this section, if known, on offenders registered in this state pursuant to sections 589.400 to 589.425, RSMo, except that only persons who have been convicted of, found guilty of or plead guilty to committing or attempting to commit sexual offenses shall be included on this web site.

3. The registered sexual offender search shall include the capability to search for sexual offenders by name, zip code, and by typing in an address and specifying a search within a certain number of miles radius from that address.

4. Only the information listed in [subdivisions (1) to (4) of] this subsection shall be provided to the public in the registered sexual offender search:

- (1) The name **and any known aliases** of the offender;
- (2) **The date of birth and any known alias dates of birth of the offender;**
- (3) **A physical description of the offender;**
- (4) The [last known address] **residence, temporary, work, and school addresses** of the offender, including the street address, city, county, state, and zip code;
[(3) A photograph] **(5) Any photographs** of the offender; [and
- (4) The crime or crimes for which the offender was convicted that caused him or her to have to register.]
- (6) **A physical description of the offender's vehicles, including the year, make, model, color, and license plate number;**
- (7) **The nature and dates of all offenses qualifying the offender to register;**
- (8) **The date on which the offender was released from the department of mental health, prison, or jail, or placed on parole, supervised release, or probation for the offenses qualifying the offender to register; and**
- (9) **Compliance status of the offender with the provisions of section 589.400 to 589.425, RSMo.**

188.023. REPORTS OF RAPE OR UNDER AGE EIGHTEEN SEXUAL ABUSE, REQUIRED TO REPORT, HOW. — Any licensed health care professional who delivers a baby or performs an abortion, who has prima facie evidence that a patient has been the victim of statutory rape in the first degree or statutory rape in the second degree, or if the patient is under the age of eighteen, that he or she has been a victim of sexual abuse, including forcible rape, sexual assault, or incest, shall be required to report such offenses in the same manner as provided for by section 210.115, RSMo.

217.735. LIFETIME SUPERVISION REQUIRED FOR CERTAIN OFFENDERS — ELECTRONIC MONITORING — TERMINATION AT AGE SIXTY-FIVE PERMITTED, WHEN — RULEMAKING AUTHORITY. — 1. Notwithstanding any other provision of law to the contrary, the board shall supervise an offender for the duration of his or her natural life when the offender has pleaded guilty to or been found guilty of an offense under section 566.030, 566.032, 566.060, or 566.062, RSMo, based on an act committed on or after August 28, 2006, or the offender has pleaded guilty to or has been found guilty of an offense under section 566.067, 566.083, 566.100, 566.151, 566.212, **566.213**, 568.020, 568.080, or 568.090, RSMo, based on an act committed on or after August 28, [2005] **2006**, against a victim who was less than fourteen years old and the offender is a prior sex offender as defined in subsection 2 of this section.

2. For the purpose of this section, a prior sex offender is a person who has previously **pleaded guilty to or** been found guilty of an offense contained in chapter 566, RSMo, **or violating section 568.020, RSMo, when the person had sexual intercourse or deviate sexual intercourse with the victim, or violating subdivision (2) of subsection 1 of section 568.045, RSMo.**

3. Subsection 1 of this section applies to offenders who have been granted probation, and to offenders who have been released on parole, conditional release, or upon serving their full sentence without early release. Supervision of an offender who was released after serving his or her full sentence will be considered as supervision on parole.

4. A mandatory condition of lifetime supervision of an offender under this section is that the offender be electronically monitored. Electronic monitoring shall be based on a global positioning system or other technology that identifies and records the offender's location at all times.

5. In appropriate cases as determined by a risk assessment, the board may terminate the supervision of an offender who is being supervised under this section when the offender is sixty-five years of age or older.

6. In accordance with section 217.040, the board may adopt rules relating to supervision and electronic monitoring of offenders under this section.

351.609. RECORDS POSSESSED BY CORPORATIONS PROVIDING CERTAIN SERVICES TO THE PUBLIC, DEFINITIONS — APPLICABILITY OF SECTION — RECORDS PROVIDED UNDER SUBPOENA OR WARRANT — ACCELERATED OR EXTENDED TIME FOR PRODUCTION OF RECORDS — MOTION TO QUASH — AUTHENTICITY VERIFIED — MISSOURI CORPORATIONS — NO CAUSE OF ACTION, WHEN. — 1. For the purposes of this section, the following terms shall mean:

(1) "Adverse result", danger to the life or physical safety of an individual, a flight from prosecution, the destruction of or tampering with evidence, the intimidation of potential witnesses, or serious jeopardy to an investigation or undue delay of a trial that occurs as a result of the notification of a subpoena or search warrant.

(2) "Electronic communication services" and "remote computing services", the same meaning as provided by the Electronic Communications Privacy Act in Chapter 121 (commencing with Section 2701) of Part I of Title 18 of the United States Code Annotated, as amended. This section shall not apply to corporations that do not provide electronic communication services or remote computing services to the general public.

(3) "Foreign corporation", the same meaning as defined in section 351.015, and in addition, those corporations organized under the laws of the United States government.

(4) "Missouri corporation", any corporation governed by the general and business corporation law of Missouri under the provisions of this chapter that files its articles of incorporation with the Missouri secretary of state and is issued a certificate of incorporation under section 351.060, RSMo.

(5) "Properly served", a subpoena or search warrant that has been delivered by hand, or in a manner reasonably allowing for proof of delivery by United States mail, overnight delivery service, or facsimile to any officer of a foreign corporation or its general manager in this state, or if the corporation is a bank to a cashier or an assistant cashier, or to any natural person designated by the foreign corporation as an agent for the service of process, or any person named in the latest certificate of the corporate agent if the corporation has designated such a corporate agent. A copy of the statement and designation, or a copy of the latest statement filed and certified by the secretary of state is sufficient evidence of the appointment of an agent for the service of process.

2. The provisions of this section shall apply to any subpoena or search warrant issued to search for records that are in the actual or constructive possession of a foreign corporation that provides electronic communication services or remote computing services

to the general public, where those records would reveal the identity of the customers using the service, data stored by, or on behalf of, the customer, the customer's usage of those services, the recipient or destination of communications sent to or from those customers, or the content of those communications.

3. When properly served with a subpoena or search warrant issued by a Missouri court, a foreign corporation shall provide to the peace officer to whom the subpoena or search warrant was issued, all records sought under the subpoena or search warrant within five business days of receipt, including any records maintained or located outside the state.

4. Where the peace officer to whom a subpoena or search warrant was issued makes a showing and the issuing judge finds that failure to produce records within five business days will cause an adverse result, the subpoena or search warrant may require production of records within less than five business days. A court may reasonably extend the time required for production of the records upon finding that the foreign corporation has shown good cause for that extension and that an extension of time would not cause an adverse result.

5. A foreign corporation seeking to quash the subpoena or search warrant shall seek relief from the court that issued the subpoena or search warrant within the time required for production of records under this section. The issuing court shall hear and decide that motion no later than five court days after the motion is filed.

6. The foreign corporation shall verify the authenticity of records that it produces by providing a verified affidavit. Such records shall be admissible as evidence.

7. A Missouri corporation that provides electronic communication services or remote computing services to the general public, when served with a subpoena or search warrant issued by another state to produce records that reveal the identity of the customers using those services, data stored by, or on behalf of, the customer, the customer's usage of those services, the recipient or destination of communications sent to or from those customers, or the content of those communications, shall produce those records as if the subpoena or search warrant was issued by a court of this state.

8. No cause of action shall lie against any foreign corporation or Missouri corporation subject to this section, its officers, employees, agents, or other specified persons for providing records, information, facilities, or assistance in accordance with the terms of a subpoena or search warrant subject to this section.

489.042. AUTHORITY TO REQUIRE REGISTERED SEXUAL OFFENDERS TO PROVIDE ACCESS TO PERSONAL HOME COMPUTER. — The court or the board of probation and parole shall have the authority to require a person who is required to register as a sexual offender under sections 589.400 to 589.425, RSMo, to give his or her assigned probation or parole officer access to his or her personal home computer as a condition of probation or parole in order to monitor and prevent such offender from obtaining and keeping child pornography or from committing an offense under chapter 566, RSMo. Such access shall allow the probation or parole officer to view the internet use history, computer hardware, and computer software of any computer, including a laptop computer, that the offender owns.

544.671. CERTAIN DEFENDANTS NOT ENTITLED TO BAIL FOR CERTAIN OFFENSES. — Notwithstanding any supreme court rule or judicial ruling to the contrary, no defendant under a sentence of death or imprisonment in the penitentiary for life, or [a] any sentence of imprisonment for a violation of section 195.222, 565.021, or 565.050, RSMo, [or subsection 1 of] section 566.030, 566.032, 566.040, 566.060, 566.062, 566.070, or 566.100, RSMo, and no defendant who has pled guilty to or been found guilty of any felony sexual offense under chapter 566, RSMo, where the victim was less than seventeen years of age at the time the

crime was committed, any sexual offense under chapter 568, RSMo, where the victim was less than seventeen years of age at the time the crime was committed, or any pornographic offense involving a minor as set forth in sections 573.023, 573.025, 573.035, and 573.037, and any felony violation of section 573.040, RSMo, shall be entitled to bail pending appeal after June 29, 1994. Pursuant to the prerogative of the general assembly to declare the public policy of this state in matters regarding criminal liability of persons and to enact laws relating to judicial procedure, the general assembly declares that subsequent to June 29, 1994, no person shall be entitled to bail or continuation of bail pursuant to section 547.170, RSMo, if that person is under a sentence of death or imprisonment in the penitentiary for life, or [a] any sentence of imprisonment for a violation of section 195.222, 565.021, or 565.050, RSMo, [or subsection 1 of] section 566.030, **566.032, 566.040, 566.060, 566.062, 566.070, or 566.100, RSMo, and no defendant who has pled guilty to or been found guilty of any felony sexual offense under chapter 566, RSMo, where the victim was less than seventeen years of age at the time the crime was committed, any sexual offense under chapter 568, RSMo, where the victim was less than seventeen years of age at the time the crime was committed, or any pornographic offense involving a minor as set forth in sections 573.023, 573.025, 573.035, and 573.037, and any felony violation of section 573.040, RSMo.**

547.170. PRISONER, WHEN LET TO BAIL. — In all cases where an appeal or writ of error is prosecuted from a judgment in a criminal cause, except where the defendant is under sentence of death or imprisonment in the penitentiary for life, or [a] any sentence of imprisonment for a violation of sections 195.222, RSMo, 565.021, RSMo, 565.050, RSMo, [subsections 1 and 2 of] section 566.030, 566.032, 566.040, 566.060, 566.062, 566.070, 566.100, RSMo, **or where the defendant has entered a plea of guilty to or been found guilty of any sexual offense under chapter 566, RSMo, where the victim was less than seventeen years of age at the time the crime was committed, any sexual offense under chapter 568, RSMo, where the victim was less than seventeen years of age at the time the crime was committed, or any pornographic offense involving a minor as set forth in sections 573.023, 573.025, 573.035, 573.037, and 573.040, RSMo,** any court or officer authorized to order a stay of proceedings under the preceding provisions may allow a writ of habeas corpus, to bring up the defendant, and may thereupon let him to bail upon a recognizance, with sufficient sureties, to be approved by such court or judge.

556.061. CODE DEFINITIONS. — In this code, unless the context requires a different definition, the following shall apply:

- (1) "Affirmative defense" has the meaning specified in section 556.056;
- (2) "Burden of injecting the issue" has the meaning specified in section 556.051;
- (3) "Commercial film and photographic print processor", any person who develops exposed photographic film into negatives, slides or prints, or who makes prints from negatives or slides, for compensation. The term commercial film and photographic print processor shall include all employees of such persons but shall not include a person who develops film or makes prints for a public agency;
- (4) "Confinement":
 - (a) A person is in confinement when such person is held in a place of confinement pursuant to arrest or order of a court, and remains in confinement until:
 - a. A court orders the person's release; or
 - b. The person is released on bail, bond, or recognizance, personal or otherwise; or
 - c. A public servant having the legal power and duty to confine the person authorizes his release without guard and without condition that he return to confinement;
 - (b) A person is not in confinement if:
 - a. The person is on probation or parole, temporary or otherwise; or

b. The person is under sentence to serve a term of confinement which is not continuous, or is serving a sentence under a work-release program, and in either such case is not being held in a place of confinement or is not being held under guard by a person having the legal power and duty to transport the person to or from a place of confinement;

(5) "Consent": consent or lack of consent may be expressed or implied. Assent does not constitute consent if:

(a) It is given by a person who lacks the mental capacity to authorize the conduct charged to constitute the offense and such mental incapacity is manifest or known to the actor; or

(b) It is given by a person who by reason of youth, mental disease or defect, or intoxication, is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or

(c) It is induced by force, duress or deception;

(6) "Criminal negligence" has the meaning specified in section 562.016, RSMo;

(7) "Custody", a person is in custody when the person has been arrested but has not been delivered to a place of confinement;

(8) "Dangerous felony" means the felonies of arson in the first degree, assault in the first degree, attempted forcible rape if physical injury results, attempted forcible sodomy if physical injury results, forcible rape, forcible sodomy, kidnaping, murder in the second degree, assault of a law enforcement officer in the first degree, domestic assault in the first degree, elder abuse in the first degree, robbery in the first degree, statutory rape in the first degree when the victim is a child less than twelve years of age at the time of the commission of the act giving rise to the offense, statutory sodomy in the first degree when the victim is a child less than twelve years of age at the time of the commission of the act giving rise to the offense, and, abuse of a child pursuant to subdivision (2) of subsection 3 of section 568.060, RSMo, **and child kidnapping**;

(9) "Dangerous instrument" means any instrument, article or substance, which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury;

(10) "Deadly weapon" means any firearm, loaded or unloaded, or any weapon from which a shot, readily capable of producing death or serious physical injury, may be discharged, or a switchblade knife, dagger, billy, blackjack or metal knuckles;

(11) "Felony" has the meaning specified in section 556.016;

(12) "Forcible compulsion" means either:

(a) Physical force that overcomes reasonable resistance; or

(b) A threat, express or implied, that places a person in reasonable fear of death, serious physical injury or kidnapping of such person or another person;

(13) "Incapacitated" means that physical or mental condition, temporary or permanent, in which a person is unconscious, unable to appraise the nature of such person's conduct, or unable to communicate unwillingness to an act. A person is not incapacitated with respect to an act committed upon such person if he or she became unconscious, unable to appraise the nature of such person's conduct or unable to communicate unwillingness to an act, after consenting to the act;

(14) "Infraction" has the meaning specified in section 556.021;

(15) "Inhabitable structure" has the meaning specified in section 569.010, RSMo;

(16) "Knowingly" has the meaning specified in section 562.016, RSMo;

(17) "Law enforcement officer" means any public servant having both the power and duty to make arrests for violations of the laws of this state, and federal law enforcement officers authorized to carry firearms and to make arrests for violations of the laws of the United States;

(18) "Misdemeanor" has the meaning specified in section 556.016;

(19) "Offense" means any felony, misdemeanor or infraction;

(20) "Physical injury" means physical pain, illness, or any impairment of physical condition;

(21) "Place of confinement" means any building or facility and the grounds thereof wherein a court is legally authorized to order that a person charged with or convicted of a crime be held;

(22) "Possess" or "possessed" means having actual or constructive possession of an object with knowledge of its presence. A person has actual possession if such person has the object on his or her person or within easy reach and convenient control. A person has constructive possession if such person has the power and the intention at a given time to exercise dominion or control over the object either directly or through another person or persons. Possession may also be sole or joint. If one person alone has possession of an object, possession is sole. If two or more persons share possession of an object, possession is joint;

(23) "Public servant" means any person employed in any way by a government of this state who is compensated by the government by reason of such person's employment, any person appointed to a position with any government of this state, or any person elected to a position with any government of this state. It includes, but is not limited to, legislators, jurors, members of the judiciary and law enforcement officers. It does not include witnesses;

(24) "Purposely" has the meaning specified in section 562.016, RSMo;

(25) "Recklessly" has the meaning specified in section 562.016, RSMo;

(26) "Ritual" or "ceremony" means an act or series of acts performed by two or more persons as part of an established or prescribed pattern of activity;

(27) "Serious emotional injury", an injury that creates a substantial risk of temporary or permanent medical or psychological damage, manifested by impairment of a behavioral, cognitive or physical condition. Serious emotional injury shall be established by testimony of qualified experts upon the reasonable expectation of probable harm to a reasonable degree of medical or psychological certainty;

(28) "Serious physical injury" means physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body;

(29) "Sexual conduct" means acts of human masturbation; deviate sexual intercourse; sexual intercourse; or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female in an act of apparent sexual stimulation or gratification;

(30) "Sexual contact" means any touching of the genitals or anus of any person, or the breast of any female person, or any such touching through the clothing, for the purpose of arousing or gratifying sexual desire of any person;

(31) "Sexual performance", any performance, or part thereof, which includes sexual conduct by a child who is less than seventeen years of age;

(32) "Voluntary act" has the meaning specified in section 562.011, RSMo.

558.018. PERSISTENT SEXUAL OFFENDER, PREDATORY SEXUAL OFFENDER, DEFINED, EXTENSION OF TERM, WHEN, MINIMUM TERM. — 1. The court shall sentence a person who has pleaded guilty to or has been found guilty of the felony of forcible rape, statutory rape in the first degree, forcible sodomy, statutory sodomy in the first degree or an attempt to commit any of the crimes designated in this subsection to an extended term of imprisonment if it finds the defendant is a persistent sexual offender.

2. A "persistent sexual offender" is one who has previously pleaded guilty to or has been found guilty of the felony of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the first degree or an attempt to commit any of the crimes designated in this subsection.

3. The term of imprisonment for one found to be a persistent sexual offender shall be [not less than thirty years, which term shall be served without] **imprisonment for life without eligibility for probation or parole. Subsection 4 of section 558.019 shall not apply to any person imprisoned under this subsection, and "imprisonment for life" shall mean imprisonment for the duration of the person's natural life.**

4. The court shall sentence a person who has pleaded guilty to or has been found guilty of the felony of forcible rape, statutory rape in the first degree, forcible sodomy, statutory sodomy in the first degree, or an attempt to commit any of the preceding crimes or child molestation in the first degree when classified as a class B felony or sexual abuse when classified as a class B felony to an extended term of imprisonment as provided for in this section if it finds the defendant is a predatory sexual offender.

5. For purposes of this section, a "predatory sexual offender" is a person who:

(1) Has previously pleaded guilty to or has been found guilty of the felony of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the first degree, or an attempt to commit any of the preceding crimes or child molestation in the first degree when classified as a class B felony or sexual abuse when classified as a class B felony; or

(2) Has previously committed an act which would constitute an offense listed in subsection 4 of this section, whether or not the act resulted in a conviction; or

(3) Has committed an act or acts against more than one victim which would constitute an offense or offenses listed in subsection 4 of this section, whether or not the defendant was charged with an additional offense or offenses as a result of such act or acts.

6. A person found to be a predatory sexual offender shall be imprisoned for life with eligibility for parole, however subsection 4 of section 558.019 shall not apply to persons found to be predatory sexual offenders for the purposes of determining the minimum prison term or the length of sentence as defined or used in such subsection. Notwithstanding any other provision of law, in no event shall a person found to be a predatory sexual offender receive a final discharge from parole.

7. Notwithstanding any other provision of law, the court shall set the minimum time required to be served before a predatory sexual offender is eligible for parole, conditional release or other early release by the department of corrections. The minimum time to be served by a person found to be a predatory sexual offender who:

(1) Has previously pleaded guilty to or has been found guilty of the felony of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the first degree, or an attempt to commit any of the preceding crimes and pleads guilty to or is found guilty of the felony of forcible rape, statutory rape in the first degree, forcible sodomy, statutory sodomy in the first degree or an attempt to commit any of the preceding crimes shall be any number of years but not less than thirty years;

(2) Has previously pleaded guilty to or has been found guilty of child molestation in the first degree when classified as a class B felony or sexual abuse when classified as a class B felony and pleads guilty to or is found guilty of attempting to commit or committing forcible rape, statutory rape in the first degree, forcible sodomy or statutory sodomy in the first degree shall be any number of years but not less than fifteen years;

(3) Has previously pleaded guilty to or has been found guilty of the felony of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the first degree, or an attempt to commit any of the preceding crimes and pleads guilty to or is found guilty of child molestation in the first degree when classified as a class B felony or sexual abuse when classified as a class B felony shall be any number of years but not less than fifteen years;

(4) Has previously pleaded guilty to or has been found guilty of child molestation in the first degree when classified as a class B felony or sexual abuse when classified as a class B felony, and pleads guilty to or is found guilty of child molestation in the first degree when classified as a class B felony or sexual abuse when classified as a class B felony shall be any number of years but not less than fifteen years;

(5) Is found to be a predatory sexual offender pursuant to subdivision (2) or (3) of subsection 5 of this section shall be any number of years within the range to which the person could have been sentenced pursuant to the applicable law if the person was not found to be a predatory sexual offender.

8. Notwithstanding any provision of law to the contrary, the department of corrections, or any division thereof, may not furlough an individual found to be and sentenced as a persistent sexual offender or a predatory sexual offender.

559.100. CIRCUIT COURTS, POWER TO PLACE ON PROBATION OR PAROLE — REVOCATION — CONDITIONS — RESTITUTION. — 1. The circuit courts of this state shall have power, herein provided, to place on probation or to parole persons convicted of any offense over which they have jurisdiction, except as otherwise provided in sections 195.275 to 195.296, RSMo, section 558.018, RSMo, **section 559.115**, section 565.020, RSMo, **sections 566.030, 566.060, 566.067, 566.151, and 566.213**, RSMo, section 571.015, RSMo, and [section 559.115] **subsection 3 of section 589.425**, RSMo.

2. The circuit court shall have the power to revoke the probation or parole previously granted and commit the person to the department of corrections. The circuit court shall determine any conditions of probation or parole for the defendant that it deems necessary to ensure the successful completion of the probation or parole term, including the extension of any term of supervision for any person while on probation or parole. The circuit court may require that the defendant pay restitution for his crime. The probation or parole may be revoked for failure to pay restitution or for failure to conform his behavior to the conditions imposed by the circuit court. The circuit court may, in its discretion, credit any period of probation or parole as time served on a sentence.

559.106. LIFETIME SUPERVISION OF CERTAIN SEXUAL OFFENDERS — ELECTRONIC MONITORING — TERMINATION AT AGE SIXTY-FIVE PERMITTED, WHEN. — 1. Notwithstanding any statutory provision to the contrary, when a court grants probation to an offender who has pleaded guilty to or has been found guilty of an offense in section 566.030, 566.032, 566.060, or 566.062, RSMo, **based on an act committed on or after August 28, 2006, or the offender has pleaded guilty to or has been found guilty of an offense under section 566.067, 566.083, 566.100, 566.151, 566.212, 566.213, 568.020, 568.080, or 568.090**, RSMo, based on an act committed on or after August 28, [2005] **2006**, against a victim who was less than fourteen years old and the offender is a prior sex offender as defined in subsection 2 of this section, the court shall order that the offender be supervised by the board of probation and parole for the duration of his or her natural life.

2. For the purpose of this section, a prior sex offender is a person who has previously pleaded guilty to or has been found guilty of an offense contained in chapter 566, RSMo, **or violating section 568.020, RSMo, when the person had sexual intercourse or deviate sexual intercourse with the victim, or of violating subdivision (2) of subsection 1 of section 568.045**, RSMo.

3. When probation for the duration of the offender's natural life has been ordered, a mandatory condition of such probation is that the offender be electronically monitored. Electronic monitoring shall be based on a global positioning system or other technology that identifies and records the offender's location at all times.

4. In appropriate cases as determined by a risk assessment, the court may terminate the probation of an offender who is being supervised under this section when the offender is sixty-five years of age or older.

566.010. CHAPTER 566 AND CHAPTER 568 DEFINITIONS. — As used in this chapter and chapter 568, RSMo, the following terms mean:

(1) "Deviate sexual intercourse", any act involving the genitals of one person and the hand, mouth, tongue, or anus of another person or a sexual act involving the penetration, however slight, of the male or female sex organ or the anus by a finger, instrument or object done for the purpose of arousing or gratifying the sexual desire of any person **or for the purpose of terrorizing the victim**;

- (2) "Sexual conduct", sexual intercourse, deviate sexual intercourse or sexual contact;
- (3) "Sexual contact", any touching of another person with the genitals or any touching of the genitals or anus of another person, or the breast of a female person, or such touching through the clothing, for the purpose of arousing or gratifying sexual desire of any person;
- (4) "Sexual intercourse", any penetration, however slight, of the female sex organ by the male sex organ, whether or not an emission results.

566.020. MISTAKE AS TO INCAPACITY OR AGE — CONSENT NOT A DEFENSE, WHEN. —

1. Whenever in this chapter the criminality of conduct depends upon a victim's being incapacitated, no crime is committed if the actor reasonably believed that the victim was not incapacitated and reasonably believed that the victim consented to the act. The defendant shall have the burden of injecting the issue of belief as to capacity and consent.

2. Whenever in this chapter the criminality of conduct depends upon a child being thirteen years of age or younger, it is no defense that the defendant believed the child to be older.

3. Whenever in this chapter the criminality of conduct depends upon a child being under seventeen years of age, it is an affirmative defense that the defendant reasonably believed that the child was seventeen years of age or older.

4. Consent is not an affirmative defense to any offense under Chapter 566 if the alleged victim is less than twelve years of age.

566.030. FORCIBLE RAPE AND ATTEMPTED FORCIBLE RAPE, PENALTIES — SUSPENDED SENTENCES NOT GRANTED, WHEN. —

1. A person commits the crime of forcible rape if such person has sexual intercourse with another person by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

2. Forcible rape or an attempt to commit forcible rape is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless:

(1) In the course thereof the actor inflicts serious physical injury or displays a deadly weapon or dangerous instrument in a threatening manner or subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person, in which case the authorized term of imprisonment is life imprisonment or a term of years not less than [ten] **fifteen years; or**

(2) **The victim is a child less than twelve years of age, in which case the required term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than thirty years of such sentence or unless the defendant has reached the age of seventy-five years and has served at least fifteen years of such sentence. Subsection 4 of section 558.019, RSMo, shall not apply to the sentence of a person who has pleaded guilty to or has been found guilty of forcible rape when the victim is under the age of twelve, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section.**

3. No person found guilty of or pleading guilty to forcible rape or an attempt to commit forcible rape shall be granted a suspended imposition of sentence or suspended execution of sentence.

566.032. STATUTORY RAPE, ATTEMPT, FIRST DEGREE, PENALTIES. — 1. A person commits the crime of statutory rape in the first degree if he has sexual intercourse with another person who is less than fourteen years old.

2. Statutory rape in the first degree **or an attempt to commit statutory rape in the first degree** is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless in the course thereof the actor inflicts serious physical injury on any person, displays a deadly weapon or dangerous instrument in a threatening manner,

subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person, or the victim is less than twelve years of age in which case the authorized term of imprisonment is life imprisonment or a term of years not less than ten years.

566.060. FORCIBLE SODOMY, PENALTIES — SUSPENDED SENTENCE NOT GRANTED, WHEN. — 1. A person commits the crime of forcible sodomy if such person has deviate sexual intercourse with another person by the use of forcible compulsion. Forcible compulsion includes the use of a substance administered without a victim's knowledge or consent which renders the victim physically or mentally impaired so as to be incapable of making an informed consent to sexual intercourse.

2. Forcible sodomy or an attempt to commit forcible sodomy is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless:

(1) In the course thereof the actor inflicts serious physical injury or displays a deadly weapon or dangerous instrument in a threatening manner or subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person, in which case the authorized term of imprisonment is life imprisonment or a term of years not less than ten years; or

(2) **The victim is a child less than twelve years of age, in which case the required term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than thirty years of such sentence or unless the defendant has reached the age of seventy-five years and has served at least fifteen years of such sentence. Subsection 4 of section 558.019, RSMo, shall not apply to the sentence of a person who has pleaded guilty to or has been found guilty of forcible sodomy when the victim is under the age of twelve, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section.**

3. No person found guilty of or pleading guilty to forcible sodomy or an attempt to commit forcible sodomy shall be granted a suspended imposition of sentence or suspended execution of sentence.

566.062. STATUTORY SODOMY, ATTEMPT, FIRST DEGREE, PENALTIES. — 1. A person commits the crime of statutory sodomy in the first degree if he has deviate sexual intercourse with another person who is less than fourteen years old.

2. Statutory sodomy in the first degree **or an attempt to commit statutory sodomy in the first degree** is a felony for which the authorized term of imprisonment is life imprisonment or a term of years not less than five years, unless in the course thereof the actor inflicts serious physical injury on any person, displays a deadly weapon or dangerous instrument in a threatening manner, subjects the victim to sexual intercourse or deviate sexual intercourse with more than one person, or the victim is less than twelve years of age, in which case the authorized term of imprisonment is life imprisonment or a term of years not less than ten years.

566.067. CHILD MOLESTATION, FIRST DEGREE, PENALTIES. — 1. A person commits the crime of child molestation in the first degree if he or she subjects another person who is less than fourteen years of age to sexual contact.

2. Child molestation in the first degree is a class B felony unless:

(1) The actor has previously been convicted of an offense under this chapter or in the course thereof the actor inflicts serious physical injury, displays a deadly weapon or deadly instrument in a threatening manner, or the offense is committed as part of a ritual or ceremony, in which case the crime is a class A felony; or

(2) **The victim is a child less than twelve years of age and:**

(a) **The actor has previously been convicted of an offense under this chapter; or**

(b) **In the course thereof the actor inflicts serious physical injury, displays a deadly weapon or deadly instrument in a threatening manner, or if the offense is committed as**

part of a ritual or ceremony, in which case, the crime is a class A felony and such person shall serve his or her term of imprisonment without eligibility for probation or parole.

566.083. SEXUAL MISCONDUCT INVOLVING A CHILD, PENALTY — APPLICABILITY OF SECTION — AFFIRMATIVE DEFENSE NOT ALLOWED, WHEN. — 1. A person commits the crime of sexual misconduct involving a child if the person:

(1) Knowingly exposes his or her genitals to a child less than fourteen years of age under circumstances in which he or she knows that his or her conduct is likely to cause affront or alarm to the child;

(2) Knowingly exposes his or her genitals to a child less than fourteen years of age for the purpose of arousing or gratifying the sexual desire of any person, including the child; or

(3) Knowingly coerces or induces a child less than fourteen years of age to expose the child's genitals for the purpose of arousing or gratifying the sexual desire of any person, including the child.

2. [As used in this section, the term "sexual act" means any of the following, whether performed or engaged in either with any other person or alone: sexual or anal intercourse, masturbation, bestiality, sadism, masochism, fetishism, fellatio, cunnilingus, any other sexual activity or nudity, if such nudity is to be depicted for the purpose of sexual stimulation or gratification of any individual who may view such depiction.

3. Violation of this section] **The provisions of this section shall apply regardless of whether the person violates the section in person or via the Internet or other electronic means.**

3. It is not an affirmative defense to prosecution for a violation of this section that the other person was a peace officer masquerading as a minor.

4. Sexual misconduct involving a child is a class D felony unless the actor has previously pleaded guilty to or been [convicted] **found guilty** of an offense pursuant to this chapter or the actor has previously pleaded guilty to or has been convicted of an offense against the laws of another state or jurisdiction which would constitute an offense under this chapter, in which case it is a class C felony.

566.086. SEXUAL CONTACT WITH A STUDENT WHILE ON PUBLIC SCHOOL PROPERTY. — 1. A person commits the crime of sexual contact with a student while on public school property if he or she **has sexual contact with a student of the public school while on any public school property and is:**

(1) A teacher, as that term is defined in subdivisions (4), (5), and (7) of section 168.104, RSMo[, and he or she has sexual contact with a student of the public school while on any public school property] ;

(2) **A student teacher;**

(3) **An employee of the school;**

(4) **A volunteer of the school or of an organization working with the school on a project or program; or**

(5) **A person employed by an entity that contracts with the public school district to provide services.**

2. For the purposes of this section, "public school property" shall mean property of any public school in this state serving kindergarten through grade twelve **or any school bus used by the public school district.**

3. Sexual contact with a student while on public school property is a class D felony.

566.090. SEXUAL MISCONDUCT, FIRST DEGREE, PENALTIES. — 1. A person commits the crime of sexual misconduct in the first degree if [he has deviate sexual intercourse with another person of the same sex or he] **such person** purposely subjects another person to sexual contact without that person's consent.

2. Sexual misconduct in the first degree is a class A misdemeanor unless the actor has previously been convicted of an offense under this chapter or unless in the course thereof the actor displays a deadly weapon in a threatening manner or the offense is committed as a part of a ritual or ceremony, in which case it is a class D felony.

566.145. SEXUAL CONTACT WITH PRISONER OR OFFENDER — DEFINITIONS — PENALTY — CONSENT NOT A DEFENSE. — 1. A person commits the crime of sexual contact with [an inmate] **a prisoner or offender** if:

(1) Such person is an employee of, or assigned to work in, any jail, prison or correctional facility and such person has sexual intercourse or deviate sexual intercourse with [an inmate or resident of the facility] **a prisoner or offender**; or

(2) **Such person is a probation and parole officer and has sexual intercourse or deviate sexual intercourse with an offender who is under the direct supervision of the officer.**

2. **For the purposes of this section the following terms shall mean:**

(1) **"Prisoner", includes any person who is in the custody of a jail, whether pretrial or after disposition of a charge;**

(2) **"Offender", includes any person in the custody of a prison or correctional facility and any person who is under the supervision of the state board of probation and parole.**

3. Sexual contact with [an inmate] **a prisoner or offender** is a class D felony.

[3. The victim's consent] **4. Consent of a prisoner or offender** is not an affirmative defense.

566.147. CERTAIN OFFENDERS NOT TO RESIDE WITHIN ONE THOUSAND FEET OF A SCHOOL OR CHILD-CARE FACILITY. — 1. Any person who, **since July 1, 1979, has been or hereafter** has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of violating any of the provisions of this chapter or the provisions of [section 565.253, RSMo, invasion of privacy;] subsection 2 of section 568.020, RSMo, incest; section 568.045, RSMo, endangering the welfare of a child in the first degree; subsection 2 of section 568.080, RSMo, use of a child in a sexual performance; section 568.090, RSMo, promoting a sexual performance by a child; section 573.023, RSMo, sexual exploitation of a minor; section 573.025, RSMo, promoting child pornography in the first degree; section 573.035, RSMo, promoting child pornography in the second degree; section 573.037, RSMo, possession of child pornography, or section 573.040, RSMo, furnishing pornographic material to minors; shall not [establish residency] **reside** within one thousand feet of any public school as defined in section 160.011, RSMo, or any private school giving instruction in a grade or grades not higher than the twelfth grade, or child-care facility as defined in section 210.201, RSMo, which is in existence at the time [such residency is established] **the individual begins to reside at the location.**

2. If such person has already established a residence and a public school, a private school, or child-care facility is subsequently built or placed within one thousand feet of such person's residence, then such person shall, within one week of the opening of such public school, private school, or child-care facility, notify the county sheriff where such public school, private school, or child-care facility is located that he or she is now residing within one thousand feet of such public school, private school, or child-care facility and shall provide verifiable proof to the sheriff that he or she resided there prior to the opening of such public school, private school, or child-care facility.

3. **For purposes of this section, "resides" means sleeps in a residence, which may include more than one location and may be mobile or transitory.**

4. Violation of the provisions of subsection 1 of this section is a class D felony except that the second or any subsequent violation is a class B felony. Violation of the provisions of subsection 2 of this section is a class A misdemeanor except that the second or subsequent violation is a class D felony.

566.149. CERTAIN OFFENDERS NOT TO BE PRESENT WITHIN FIVE HUNDRED FEET OF SCHOOL PROPERTY, EXCEPTION — PERMISSION REQUIRED FOR PARENTS OR GUARDIANS WHO ARE OFFENDERS, PROCEDURE — PENALTY. — 1. Any person who has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of violating any of the provisions of this chapter or the provisions of subsection 2 of section 568.020, RSMo, incest; section 568.045, RSMo, endangering the welfare of a child in the first degree; subsection 2 of section 568.080, RSMo, use of a child in a sexual performance; section 568.090, RSMo, promoting a sexual performance by a child; section 573.023, RSMo, sexual exploitation of a minor; section 573.025, RSMo, promoting child pornography; or section 573.040, RSMo, furnishing pornographic material to minors; shall not be present in or loiter within five hundred feet of any school building, on real property comprising any school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity when persons under the age of eighteen are present in the building, on the grounds, or in the conveyance, unless the offender is a parent, legal guardian, or custodian of a student present in the building and has met the conditions set forth in subsection 2 of this section.

2. No parent, legal guardian, or custodian who has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of violating any of the offenses listed in subsection 1 of this section shall be present in any school building, on real property comprising any school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity when persons under the age of eighteen are present in the building, on the grounds or in the conveyance unless the parent, legal guardian, or custodian has permission to be present from the superintendent or school board or in the case of a private school from the principal. In the case of a public school, if permission is granted, the superintendent or school board president must inform the principal of the school where the sex offender will be present. Permission may be granted by the superintendent, school board, or in the case of a private school from the principal for more than one event at a time, such as a series of events, however, the parent, legal guardian, or custodian must obtain permission for any other event he or she wishes to attend for which he or she has not yet had permission granted.

3. Violation of the provisions of this section shall be a class A misdemeanor.

566.151. ENTICEMENT OF A CHILD, PENALTIES. — 1. A person at least twenty-one years of age or older commits the crime of enticement of a child if that person persuades, solicits, coaxes, entices, or lures whether by words, actions or through communication via the Internet or any electronic communication, any person who is less than fifteen years of age for the purpose of engaging in sexual conduct [with a child].

2. It is not an affirmative defense to a prosecution for a violation of this section that the other person was a peace officer masquerading as a minor.

3. [Attempting to entice a child is a class D felony.]

4.] Enticement of a child **or an attempt to commit enticement of a child** is a [class C felony unless the person has previously pled guilty to or been found guilty of violating the provisions of this section, section 568.045, 568.050, or 568.060, RSMo, or this chapter, in which case it is a class B felony] **felony for which the authorized term of imprisonment shall be not less than five years and not more than thirty years. No person convicted under this section shall be eligible for parole, probation, conditional release, or suspended imposition or execution of sentence for a period of five calendar years.**

566.213. SEXUAL TRAFFICKING OF A CHILD UNDER AGE TWELVE — AFFIRMATIVE DEFENSE NOT ALLOWED, WHEN — PENALTY. — 1. A person commits the crime of sexual trafficking of a child under the age of twelve if the individual knowingly:

(1) Recruits, entices, harbors, transports, provides, or obtains by any means a person under the age of twelve to participate in a commercial sex act or benefits, financially or by receiving anything of value, from participation in such activities; or

(2) Causes a person under the age of twelve to engage in a commercial sex act.

2. It shall not be an affirmative defense that the defendant believed that the person was twelve years of age or older.

3. Sexual trafficking of a child less than twelve years of age shall be a felony for which the authorized term of imprisonment is life imprisonment without eligibility for probation or parole until the defendant has served not less than twenty-five years of such sentence. Subsection 4 of section 558.019, RSMo, shall not apply to the sentence of a person who has pleaded guilty to or been found guilty of sexual trafficking of a child less than twelve years of age, and "life imprisonment" shall mean imprisonment for the duration of a person's natural life for the purposes of this section.

566.265. PENALTIES FOR VIOLATIONS BY CORPORATIONS OR BUSINESSES. — If a corporation or other business pleads guilty to or is found guilty of violating section 566.203, 566.206, 566.209, 566.212, 566.213, or 566.215, in addition to the criminal penalties described in such sections and other remedies provided for by law, the court may:

(1) Order its dissolution or reorganization;

(2) Order the suspension or revocation of any license, permit, or prior approval granted to it by the state;

(3) Order the surrender of its charter if it is organized under Missouri law or the revocation of its certificate to conduct business in Missouri if it is not organized under Missouri law.

567.085. PROMOTING TRAVEL FOR PROSTITUTION — PENALTY. — 1. A person commits the crime of promoting travel for prostitution if the person knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in prostitution as defined by section 567.010.

2. The crime of promoting travel for prostitution is a class C felony.

567.087. PROHIBITIONS ON TRAVEL AGENCIES OR TOUR OPERATORS — REBUTTABLE PRESUMPTION, ADVERTISEMENTS. — 1. No travel agency or charter tour operator shall:

(1) Promote travel for prostitution under section 567.085;

(2) Sell, advertise, or otherwise offer to sell travel services or facilitate travel:

(a) For the purpose of engaging in a commercial sex act as defined in section 566.200, RSMo;

(b) That consists of tourism packages or activities using and offering any sexual contact as defined in section 566.010, RSMo, as enticement for tourism; or

(c) That provides or purports to provide access to or that facilitates the availability of sex escorts or sexual services.

2. There shall be a rebuttable presumption that any travel agency or charter tour operator using advertisements that include the term "sex tours" or "sex travel" or include depictions of human genitalia is in violation of this section.

567.089. OFFERING TRAVEL FOR PURPOSE OF PROSTITUTION PROHIBITED — PENALTIES. — 1. No travel agency or charter tour operator shall engage in selling, advertising, or otherwise offering to sell travel services, tourism packages, or activities that solicit, encourage, or facilitate travel for the purpose of engaging in prostitution.

2. Upon violation of this section by a travel agency or charter tour operator, the secretary of state shall revoke the articles of incorporation of the travel agency or charter tour operator. The secretary of state, as part of a proceeding brought under this section, may order a freeze of the bank or deposit accounts of the travel agency or charter tour operator.

568.020. INCEST. — 1. A person commits the crime of incest if he marries or purports to marry or engages in sexual intercourse or deviate sexual intercourse with a person he knows to be, without regard to legitimacy:

- (1) His ancestor or descendant by blood or adoption; or
- (2) His stepchild, while the marriage creating that relationship exists; or
- (3) His brother or sister of the whole or half-blood; or
- (4) His uncle, aunt, nephew or niece of the whole blood.

2. [For purposes of this section:

(1) "Sexual intercourse" means any penetration, however slight, of the female sex organ by the male sex organ;

(2) "Deviate sexual intercourse" means any act of sexual gratification between persons not lawfully married to one another, involving the genitals of one person and the mouth, tongue or anus of another.

3.] Incest is a class D felony.

573.010. DEFINITIONS. — As used in this chapter the following terms shall mean:

(1) "Child", any person under the age of fourteen;

(2) "Child pornography"[,] :

(a) Any obscene material or performance depicting sexual conduct, sexual contact, or a sexual performance, as these terms are defined in section 556.061, RSMo, and which has as one of its participants or portrays as an observer of such conduct, contact, or performance a [child] **minor** under the age of eighteen; or

(b) **Any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct where:**

a. **The production of such visual depiction involves the use of a minor engaging in sexually explicit conduct;**

b. **Such visual depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from, that of a minor engaging in sexually explicit conduct; or**

c. **Such visual depiction has been created, adapted, or modified to show that an identifiable minor is engaging in sexually explicit conduct;**

(3) "Displays publicly", exposing, placing, posting, exhibiting, or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a street, highway or public sidewalk, or from the property of others or from any portion of the person's store, or the exhibitor's store or property when items and material other than this material are offered for sale or rent to the public;

(4) "Explicit sexual material", any pictorial or three dimensional material depicting human masturbation, deviate sexual intercourse, sexual intercourse, direct physical stimulation or unclothed genitals, sadomasochistic abuse, or emphasizing the depiction of postpubertal human genitals; provided, however, that works of art or of anthropological significance shall not be deemed to be within the foregoing definition;

(5) "Furnish", to issue, sell, give, provide, lend, mail, deliver, transfer, circulate, disseminate, present, exhibit or otherwise provide;

(6) **"Graphic"**, when used with respect to a depiction of sexually explicit conduct, that a viewer can observe any part of the genitals or pubic area of any depicted person or animal during any part of the time that the sexually explicit conduct is being depicted;

(7) **"Identifiable minor"**:

(a) A person:

a. (i) Who was a minor at the time the visual depiction was created, adapted, or modified; or

(ii) Whose image as a minor was used in creating, adapting, or modifying the visual depiction; and

b. Who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature; and

(b) The term shall not be construed to require proof of the actual identity of the identifiable minor;

(8) **"Indistinguishable"**, when used with respect to a depiction, virtually indistinguishable, in that the depiction is such that an ordinary person viewing the depiction would conclude that the depiction is of an actual minor engaged in sexually explicit conduct. Indistinguishable does not apply to depictions that are drawings, cartoons, sculptures, or paintings depicting minors or adults;

(9) **"Material"**, anything printed or written, or any picture, drawing, photograph, motion picture film, videotape or videotape production, or pictorial representation, or any recording or transcription, or any mechanical, chemical, or electrical reproduction, or stored computer data, or anything which is or may be used as a means of communication. "Material" includes undeveloped photographs, molds, printing plates, stored computer data and other latent representational objects;

[(7)] (10) **"Minor"**, any person under the age of eighteen;

[(8)] (11) **"Nudity"**, the showing of postpubertal human genitals or pubic area, with less than a fully opaque covering;

[(9)] (12) **"Obscene"**, any material or performance is obscene if, taken as a whole:

(a) Applying contemporary community standards, its predominant appeal is to prurient interest in sex; and

(b) The average person, applying contemporary community standards, would find the material depicts or describes sexual conduct in a patently offensive way; and

(c) A reasonable person would find the material lacks serious literary, artistic, political or scientific value;

[(10)] (13) **"Performance"**, any play, motion picture film, videotape, dance or exhibition performed before an audience of one or more;

[(11)] (14) **"Pornographic for minors"**, any material or performance is pornographic for minors if the following apply:

(a) The average person, applying contemporary community standards, would find that the material or performance, taken as a whole, has a tendency to cater or appeal to a prurient interest of minors; and

(b) The material or performance depicts or describes nudity, sexual conduct, sexual excitement, or sadomasochistic abuse in a way which is patently offensive to the average person applying contemporary adult community standards with respect to what is suitable for minors; and

(c) The material or performance, taken as a whole, lacks serious literary, artistic, political, or scientific value for minors;

[(12)] (15) **"Promote"**, to manufacture, issue, sell, provide, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or agree to do the same, by any means including a computer;

[(13)] **(16) "Sadomasochistic abuse"**, flagellation or torture by or upon a person as an act of sexual stimulation or gratification;

[(14)] **(17) "Sexual conduct"**, actual or simulated, normal or perverted acts of human masturbation; deviate sexual intercourse; sexual intercourse; or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female in an act of apparent sexual stimulation or gratification or any sadomasochistic abuse or acts including animals or any latent objects in an act of apparent sexual stimulation or gratification;

(18) "Sexually explicit conduct", actual or simulated:

(a) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex:

(b) Bestiality;

(c) Masturbation;

(d) Sadistic or masochistic abuse; or

(e) Lascivious exhibition of the genitals or pubic area of any person;

[(15)] **(19) "Sexual excitement"**, the condition of human male or female genitals when in a state of sexual stimulation or arousal;

(20) "Visual depiction", includes undeveloped film and videotape, and data stored on computer disk or by electronic means which is capable of conversion into a visual image;

[(16)] **(21) "Wholesale promote"**, to manufacture, issue, sell, provide, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, or to offer or agree to do the same for purposes of resale or redistribution.

575.159. AIDING A SEXUAL OFFENDER — PENALTY — APPLICABILITY OF SECTION. —

1. A person commits the crime of aiding a sexual offender if such person knows that another person is a convicted sexual offender who is required to register as a sexual offender and has reason to believe that such sexual offender is not complying, or has not complied with the requirements of sections 589.400 to 589.425, RSMo, and who, with the intent to assist the sexual offender in eluding a law enforcement agency that is seeking to find the sexual offender to question the offender about, or to arrest the offender for, his or her noncompliance with the requirements of sections 589.400 to 589.425, RSMo:

(1) Withholds information from or does not notify the law enforcement agency about the sexual offender's noncompliance with the requirements of sections 589.400 to 589.425, RSMo, and if known the whereabouts of the sexual offender;

(2) Harbors or attempts to harbor or assists another person in harboring or attempting to harbor the sexual offender;

(3) Conceals or attempts to conceal or assists another person in concealing or attempting to conceal the sexual offender; or

(4) Provides information to the law enforcement agency regarding the sexual offender which the person knows to be false information.

2. Aiding a sexual offender is a class D felony.

3. The provisions of this section do not apply if the sexual offender is incarcerated in or is in the custody of a state correctional facility, a private correctional facility, a local jail, or a federal correctional facility.

575.195. ESCAPE FROM COMMITMENT, DETENTION, OR CONDITIONAL RELEASE —

PENALTY. — 1. A person commits the crime of escape from commitment [or] , detention, or conditional release if he or she has been committed to a state mental hospital under the provisions of sections 552.010 to 552.080, RSMo, or [of] sections 632.480 to 632.513, RSMo, or has been ordered to be taken into custody, detained, or held pursuant to sections 632.480 to 632.513, RSMo, or as provided by section 632.475, RSMo, has been committed to the department of mental health as a criminal sexual psychopath under statutes in effect

before August 13, 1980, or has been granted a conditional release under the provisions of sections 552.010 to 552.080, RSMo, or sections 632.480 to 632.513, RSMo, and he or she escapes from such commitment [or] , detention, or conditional release.

2. Escape from commitment [or] , detention, or conditional release is a class D felony.

589.400. REGISTRATION OF CERTAIN OFFENDERS WITH CHIEF LAW OFFICERS OF COUNTY OF RESIDENCE — TIME LIMITATION — CITIES MAY REQUEST COPY OF REGISTRATION — FEES — AUTOMATIC REMOVAL FROM REGISTRY — PETITIONS FOR REMOVAL — PROCEDURE, NOTICE, DENIAL OF PETITION — HIGHER EDUCATION STUDENTS AND WORKERS — PERSONS REMOVED. — 1. Sections 589.400 to 589.425 shall apply to:

(1) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found guilty of, or pled guilty or nolo contendere to committing, or attempting to commit, a felony offense of chapter 566, RSMo, **including sexual trafficking of a child and sexual trafficking of a child under the age of twelve**, or any offense of chapter 566, RSMo, where the victim is a minor; or

(2) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found guilty of, or pled guilty or nolo contendere to committing, or attempting to commit one or more of the following offenses: kidnapping[, pursuant to section 565.110, RSMo] **when the victim was a child and the defendant was not a parent or guardian of the child**; felonious restraint **when the victim was a child and the defendant is not a parent or guardian of the child**; sexual contact or sexual intercourse with a resident of a nursing home, under section 565.200, RSMo; endangering the welfare of a child under section 568.045, RSMo, **when the endangerment is sexual in nature**; genital mutilation of a female child, under section 568.065, RSMo; promoting prostitution in the first degree; promoting prostitution in the second degree; promoting prostitution in the third degree; sexual exploitation of a minor; promoting child pornography in the first degree; promoting child pornography in the second degree; possession of child pornography; furnishing pornographic material to minors; public display of explicit sexual material; coercing acceptance of obscene material; promoting obscenity in the first degree; promoting pornography for minors or obscenity in the second degree; incest; [abuse of a child, pursuant to section 568.060, RSMo;] use of a child in a sexual performance; or promoting sexual performance by a child; and committed or attempted to commit the offense against a victim who is a minor, defined for the purposes of sections 589.400 to 589.425 as a person under eighteen years of age; or

(3) Any person who, since July 1, 1979, has been committed to the department of mental health as a criminal sexual psychopath; or

(4) Any person who, since July 1, 1979, has been found not guilty as a result of mental disease or defect of any offense listed in subdivision (1) or (2) of this subsection; or

(5) Any person who is a resident of this state who has, since July 1, 1979, or is hereafter convicted of, been found guilty of, or pled guilty to or nolo contendere in any other state, foreign country, or under federal or military jurisdiction to committing, or attempting to commit, an offense which, if committed in this state, would be a violation of chapter 566, RSMo, or a felony violation of any offense listed in subdivision (2) of this subsection or has been or is required to register in another state or has been or is required to register under federal or military law; or

(6) Any person who has been or is required to register in another state or has been or is required to register under federal or military law and who works or attends school or training on a full-time or on a part-time basis **or has a temporary residence** in Missouri. "Part-time" in this subdivision means for more than fourteen days in any twelve-month period.

2. Any person to whom sections 589.400 to 589.425 apply shall, within ten days of conviction, release from incarceration, or placement upon probation, register with the chief law enforcement official of the county **or city not within a county** in which such person resides unless such person has already registered in that county for the same offense. Any person to whom sections 589.400 to 589.425 apply if not currently registered in their county of residence

shall register with the chief law enforcement official of such county **or city not within a county** within ten days of August 28, 2003. The chief law enforcement official shall forward a copy of the registration form required by section 589.407 to a city, town, village, or campus law enforcement agency located within the county of the chief law enforcement official, if so requested. Such request may ask the chief law enforcement official to forward copies of all registration forms filed with such official. The chief law enforcement official may forward a copy of such registration form to any city, town, village, or campus law enforcement agency, if so requested.

3. The registration requirements of sections 589.400 through 589.425 are lifetime registration requirements unless:

- (1) All offenses requiring registration are reversed, vacated or set aside [or unless] ;
- (2) The registrant is pardoned of the offenses requiring registration;
- (3) **The registrant is no longer required to register and his or her name shall be removed from the registry under the provisions of subsection 6 of this section; or**
- (4) **The registrant may petition the court for removal from the registry under subsection 7 or 8 of this section and the court orders the removal of such person from the registry.**

4. For processing an initial sex offender registration the chief law enforcement officer of the county **or city not within a county** may charge the offender registering a fee of up to ten dollars.

5. For processing any change in registration required pursuant to section 589.414 the chief law enforcement official of the county **or city not within a county** may charge the person changing their registration a fee of five dollars for each change made after the initial registration.

6. **Effective August 28, 2006, any person currently on the sexual offender registry for being convicted of, found guilty of, or pleading guilty or nolo contendere to, committing felonious restraint when the victim was a child and he or she was the parent or guardian of the child, non-sexual child abuse that was committed under section 568.060, RSMo, or kidnapping when the victim was a child and he or she was the parent or guardian of the child, shall be removed from the registry. However, such person shall remain on the sexual offender registry for any other offense for which he or she is required to register under sections 589.400 to 589.425.**

7. **Effective August 28, 2006, any person currently on the sexual offender registry for having been convicted of, found guilty of, or having pleaded guilty or nolo contendere to, promoting prostitution in the second degree, promoting prostitution in the third degree, public display of explicit sexual material, statutory rape in the second degree, and no physical force or threat of physical force was used in the commission of the crime, may file a petition in the civil division of the circuit court in the county in which the offender was convicted or found guilty of or pled guilty or nolo contendere to the offense or offenses for the removal of his or her name from the sexual offender registry after ten years have passed from the date he or she was required to register.**

8. **Effective August 28, 2006, any person on the sexual offender registry for having been convicted of, found guilty of, or having pled guilty or nolo contendere to an offense included under subsection 1 of this section may file a petition after two years have passed from the date the offender was convicted or found guilty of or pled guilty or nolo contendere to the offense or offenses in the civil division of the circuit court in the county in which the offender was convicted or found guilty of or pled guilty or nolo contendere to the offense or offenses for removal of his or her name from the registry if such person was nineteen years of age or younger and the victim was thirteen years of age or older at the time of the offense and no physical force or threat of physical force was used in the commission of the offense.**

9. (1) **The court may grant such relief under subsection 7 or 8 of this section if such person demonstrates to the court that he or she has complied with the provisions of this**

section and is not a current or potential threat to public safety. The prosecuting attorney in the circuit court in which the petition is filed must be given notice, by the person seeking removal from the registry, of the petition to present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. Failure of the person seeking removal from the registry to notify the prosecuting attorney of the petition shall result in an automatic denial of such person's petition. If the prosecuting attorney is notified of the petition he or she shall make reasonable efforts to notify the victim of the crime for which the person was required to register, of the petition and the dates and times of any hearings or other proceedings in connection with that petition.

(2) If the petition is denied, such person shall wait at least twelve months before petitioning the court again. If the court finds that the petitioner is entitled to relief, which removes such person's name from the registry, a certified copy of the written findings or order shall be forwarded by the court to the chief law enforcement official having jurisdiction over the offender and to the Missouri state highway patrol in order to have such person's name removed from the registry.

10. Any nonresident worker or nonresident student shall register for the duration of such person's employment or attendance at any school of higher education and is not entitled to relief under the provisions of subsection 9 of this section. Any registered offender from another state who has a temporary residence in this state and resides more than fourteen days in a twelve-month period shall register for the duration of such person's temporary residency and is not entitled to the provisions of subsection 9 of this section.

11. Any person whose name is removed from the sexual offender registry under subsection 7 or 8 of this section shall no longer be required to fulfill the registration requirements of sections 589.400 to 589.425, unless such person is required to register for committing another offense after being removed from the registry.

589.402. INTERNET SEARCH CAPABILITY OF REGISTERED SEX OFFENDERS TO BE MAINTAINED — INFORMATION TO BE MADE AVAILABLE — NEWSPAPER PUBLICATION. —

1. The chief law enforcement officer of the county **or city not within a county** may maintain a web page on the Internet, which shall be open to the public and shall include a registered sexual offender search capability.

2. The registered sexual offender search shall make it possible for any person using the Internet to search for and find the information specified in [subdivisions (1) to (4) of] subsection 3 of this section, if known, on offenders registered in this state pursuant to sections 589.400 to 589.425, except that only persons who have been convicted of, found guilty of, or plead guilty to committing or attempting to commit sexual offenses shall be included on this web site.

3. Only the information listed in [subdivisions (1) to (4) of] this subsection shall be provided to the public in the registered sexual offender search:

- (1) The name **and any known aliases** of the offender;
- (2) **The date of birth and any known alias dates of birth of the offender;**
- (3) **A physical description of the offender;**
- (4) The [last known address] **residence, temporary, work, and school addresses** of the offender, including the street address, city, county, state, and zip code;
- [(3) A photograph] (5) **Any photographs** of the offender; [and
- (4) The crime or crimes for which the offender was convicted that caused him or her to have to register.]
- (6) **A physical description of the offender's vehicles, including the year, make, model, color, and license plate number;**
- (7) **The nature and dates of all offenses qualifying the offender to register;**

(8) The date on which the offender was released from the department of mental health, prison, or jail, or placed on parole, supervised release, or probation for the offenses qualifying the offender to register; and

(9) Compliance status of the offender with the provisions of sections 589.400 to 589.425.

4. The chief law enforcement officer of any county or city not within a county may publish in any newspaper distributed in the county or city not within a county the sexual offender information provided under subsection 3 of this section for any offender residing in the county or city not within a county.

589.403. CORRECTIONAL FACILITY OR MENTAL HEALTH INSTITUTION RELEASING ON PAROLE OR DISCHARGE, OFFICIAL IN CHARGE, DUTIES. — Any person to whom subsection 1 of section 589.400 applies who is paroled, discharged, or otherwise released from any correctional facility of the department of corrections or any mental health institution where such person was confined, shall be informed by the official in charge of such correctional facility or mental health institution of the person's possible duty to register pursuant to sections 589.400 to 589.425. If such person is required to register pursuant to sections 589.400 to 589.425, the official in charge of the correctional facility or the mental health institution shall obtain the address where the person expects to reside upon discharge, parole or release, and shall report such address to the chief law enforcement official of the county **or city not within a county** where the person expects to reside upon discharge, parole or release.

589.405. COURT'S DUTIES UPON RELEASE OF SEXUAL OFFENDER. — Any person to whom subsection 1 of section 589.400 applies who is released on probation, discharged upon payment of a fine, or released after confinement in a county jail shall, prior to such release or discharge, be informed of the possible duty to register pursuant to sections 589.400 to 589.425 by the court having jurisdiction over the case. If such person is required to register pursuant to sections 589.400 to 589.425, the court shall obtain the address where the person expects to reside upon discharge, parole or release and shall report such address to the chief law enforcement official of the county **or city not within a county** where the person expects to reside upon discharge, parole or release.

589.407. REGISTRATION, REQUIRED INFORMATION — SUBSTANTIATING ACCURACY OF INFORMATION. — 1. Any registration pursuant to sections 589.400 to 589.425 shall consist of completion of an offender registration form developed by the Missouri state highway patrol. Such form shall include, but is not limited to the following:

(1) A statement in writing signed by the person, giving the name, address, Social Security number and phone number of the person, **the license plate number and vehicle description, including the year, make, model, and color of each vehicle owned or operated by the offender**, the place of employment of such person, enrollment within any institutions of higher education, the crime which requires registration, whether the person was sentenced as a persistent or predatory offender pursuant to section 558.018, RSMo, the date, place, and a brief description of such crime, the date and place of the conviction or plea regarding such crime, the age and gender of the victim at the time of the offense and whether the person successfully completed the Missouri sexual offender program pursuant to section 589.040, if applicable; and

(2) The fingerprints and a photograph of the person.

2. **The offender shall provide positive identification and documentation to substantiate the accuracy of the information completed on the offender registration form, including but not limited to the following:**

(1) A photocopy of a valid driver's license or non-driver's identification card;

(2) A document verifying proof of the offender's residency; and

(3) A photocopy of the vehicle registration for each of the offender's vehicles.

589.414. REGISTRANT'S DUTIES ON CHANGE OF ADDRESS — TIME LIMITATIONS FOR CERTAIN NOTIFICATIONS. — 1. If any person required by sections 589.400 to 589.425 to register changes residence or address within the same county **or city not within a county** as such person's previous address, the person shall inform the chief law enforcement official in writing within ten days of such new address and phone number, if the phone number is also changed.

2. If any person required by sections 589.400 to 589.425 to register changes such person's residence or address to a different county, the person shall appear in person and shall inform both the chief law enforcement official with whom the person last registered and the chief law enforcement official of the county **or city not within a county** having jurisdiction over the new residence or address in writing within ten days of such new address and phone number, if the phone number is also changed. If any person required by sections 589.400 to 589.425 to register changes their state of residence, the person shall appear in person and shall inform both the chief law enforcement official with whom the person was last registered and the chief law enforcement official of the area in the new state having jurisdiction over the new residence or address within ten days of such new address. Whenever a registrant changes residence, the chief law enforcement official of the county **or city not within a county** where the person was previously registered shall promptly inform the Missouri state highway patrol of the change. When the registrant is changing the residence to a new state, the Missouri state highway patrol shall promptly inform the responsible official in the new state of residence.

3. Any person required by sections 589.400 to 589.425 to register who changes his or her enrollment or employment status with any institution of higher education within this state, by either beginning or ending such enrollment or employment, shall inform the chief law enforcement officer of such change within seven days after such change is made.

4. Any person required by sections 589.400 to 589.425 to register who officially changes such person's name shall inform the chief law enforcement officer of such name change within seven days after such change is made.

5. In addition to the requirements of subsections 1 and 2 of this section, the following offenders shall report in person to the [county] **chief** law enforcement agency every ninety days to verify the information contained in their statement made pursuant to section 589.407:

(1) Any offender registered as a predatory or persistent sexual offender under the definitions found in section 558.018, RSMo;

(2) Any offender who is registered for a crime where the victim was less than eighteen years of age at the time of the offense; and

(3) Any offender who has pled guilty or been found guilty pursuant to section 589.425 of failing to register or submitting false information when registering.

6. In addition to the requirements of subsections 1 and 2 of this section, all registrants shall report [annually] **semi-annually** in person in the month of their birth **and six months thereafter** to the [county] **chief** law enforcement agency to verify the information contained in their statement made pursuant to section 589.407. **All registrants shall provide an updated photograph of himself or herself in the month of his or her birth to the chief law enforcement agency. The photograph must depict a clear likeness of the registrant or the registrant shall be in violation of this section.**

7. In addition to the requirements of subsections 1 and 2 of this section, all Missouri registrants who work or attend school or training on a full-time or part-time basis in any other state shall be required to report in person to the chief law enforcement officer in the area of the state where they work or attend school or training and register in that state. "Part-time" in this subsection means for more than fourteen days in any twelve-month period.

589.425. FAILURE TO REGISTER, PENALTY — SUBSEQUENT VIOLATIONS, PENALTY. — 1. [Any person who is required to register pursuant to sections 589.400 to 589.425 and does not meet all requirements of sections 589.400 to 589.425 is guilty of a class A misdemeanor, unless

the person has been convicted pursuant to chapter 566 of an unclassified felony, class A felony, class B felony, or any felony involving a child under the age of fourteen, in which case the person is guilty of a class D felony.

2. Any person who commits a second or subsequent violation of subsection 1 of this section is guilty of a class D felony, unless the person has been convicted pursuant to chapter 566 of an unclassified felony, class A felony, class B felony, or any felony involving a child under the age of fourteen, in which case the person is guilty of a class C felony.] **A person commits the crime of failing to register as a sex offender when the person is required to register under sections 589.400 to 589.425 and fails to comply with any requirement of sections 589.400 to 589.425. Failing to register as a sex offender is a class A misdemeanor unless the person is required to register based on having committed an offense in chapter 566, RSMo, which was an unclassified felony, a class A or B felony, or a felony involving a child under the age of fourteen, in which case it is a class D felony.**

2. A person commits the crime of failing to register as a sex offender as a second offense by failing to comply with any requirement of sections 589.400 to 589.425 and he or she has previously pled guilty to or has previously been found guilty of failing to register as a sex offender. Failing to register as a sex offender as a second offense is a class D felony unless the person is required to register based on having committed an offense in chapter 566, RSMo, which was an unclassified felony, a class A or B felony, or a felony involving a child under the age of fourteen, in which case it is a class C felony.

3. A person commits the crime of failing to register as a sex offender as a third offense by failing to meet the requirements of sections 589.400 to 589.425 and he or she has, on two or more occasions, previously pled guilty to or has previously been found guilty of failing to register as a sex offender. Failing to register as a sex offender as a third offense is a felony which shall be punished by a term of imprisonment of not less than ten years and not more than thirty years.

(1) No court may suspend the imposition or execution of sentence of a person who pleads guilty to or is found guilty of failing to register as a sex offender as a third offense. No court may sentence such person to pay a fine in lieu of a term of imprisonment.

(2) A person sentenced under this subsection shall not be eligible for conditional release or parole until he or she has served at least two years of imprisonment.

(3) Upon release, an offender who has committed failing to register as a sex offender as a third offense shall be electronically monitored as a mandatory condition of supervision. Electronic monitoring may be based on a global positioning system or any other technology which identifies and records the offender's location at all times.

600.042. DIRECTOR'S DUTIES AND POWERS — CASES FOR WHICH REPRESENTATION IS AUTHORIZED — RULES, PROCEDURE — DISCRETIONARY POWERS OF DEFENDER SYSTEM — BAR MEMBERS APPOINTMENT AUTHORIZED. — 1. The director shall:

(1) Direct and supervise the work of the deputy directors and other state public defender office personnel appointed pursuant to this chapter; and he and the chief deputy director may participate in the trial and appeal of criminal actions at the request of the defender or upon order of the commission;

(2) Submit to the commission, between August fifteenth and September fifteenth of each year, a report which shall include all pertinent data on the operation of the state public defender system, the costs, projected needs, and recommendations for statutory changes. Prior to October fifteenth of each year, the commission shall submit such report along with such recommendations, comments, conclusions, or other pertinent information it chooses to make to the chief justice, the governor, and the general assembly. Such reports shall be a public record, shall be maintained in the office of the state public defender, and shall be otherwise distributed as the commission shall direct;

(3) With the approval of the commission, establish such divisions, facilities and offices and select such professional, technical and other personnel, including investigators, as he deems reasonably necessary for the efficient operation and discharge of the duties of the state public defender system under this chapter;

(4) Administer and coordinate the operations of defender services and be responsible for the overall supervision of all personnel, offices, divisions and facilities of the state public defender system, except that the director shall have no authority to direct or control the legal defense provided by a defender to any person served by the state public defender system;

(5) Develop programs and administer activities to achieve the purposes of this chapter;

(6) Keep and maintain proper financial records with respect to the providing of all public defender services for use in the calculating of direct and indirect costs of any or all aspects of the operation of the state public defender system;

(7) Supervise the training of all public defenders, assistant public defenders, deputy public defenders and other personnel and establish such training courses as shall be appropriate;

(8) With approval of the commission, promulgate necessary rules, regulations and instructions consistent with this chapter defining the organization of his office and the responsibilities of public defenders, assistant public defenders, deputy public defenders and other personnel;

(9) With the approval of the commission, apply for and accept on behalf of the public defender system any funds which may be offered or which may become available from government grants, private gifts, donations or bequests or from any other source. Such moneys shall be deposited in the state general revenue fund;

(10) Contract for legal services with private attorneys on a case-by-case basis and with assigned counsel as the commission deems necessary considering the needs of the area, for fees approved and established by the commission;

(11) With the approval and on behalf of the commission, contract with private attorneys for the collection and enforcement of liens and other judgments owed to the state for services rendered by the state public defender system.

2. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

3. The director and defenders shall, within guidelines as established by the commission and as set forth in subsection 4 of this section, accept requests for legal services from eligible persons entitled to counsel under this chapter or otherwise so entitled under the constitution or laws of the United States or of the state of Missouri and provide such persons with legal services when, in the discretion of the director or the defenders, such provision of legal services is appropriate.

4. The director and defenders shall provide legal services to an eligible person:

(1) Who is detained or charged with a felony, including appeals from a conviction in such a case;

(2) Who is detained or charged with a misdemeanor which will probably result in confinement in the county jail upon conviction, including appeals from a conviction in such a case;

(3) Who is detained or charged with a violation of probation or parole;

(4) Who has been taken into custody pursuant to section 632.489, RSMo, including appeals from a determination that the person is a sexually violent predator **and petitions for release**, notwithstanding any provisions of law to the contrary;

(5) For whom the federal constitution or the state constitution requires the appointment of counsel; and

(6) For whom, in a case in which he faces a loss or deprivation of liberty, any law of this state requires the appointment of counsel; however, the director and the defenders shall not be

required to provide legal services to persons charged with violations of county or municipal ordinances.

5. The director may:

(1) Delegate the legal representation of any person to any member of the state bar of Missouri;

(2) Designate persons as representatives of the director for the purpose of making indigency determinations and assigning counsel.

632.484. DETENTION AND EVALUATION OF PERSONS ALLEGED TO BE SEXUALLY VIOLENT PREDATORS — DUTIES OF ATTORNEY GENERAL AND DEPARTMENT OF MENTAL HEALTH — EXPIRATION DATE. — 1. When the attorney general receives written notice from any law enforcement agency that a person, who has pled guilty to or been convicted of a sexually violent offense and who is not presently in the physical custody of an agency with jurisdiction:

(1) Has committed a recent overt act; or

(2) Has been in the custody of an agency with jurisdiction within the preceding ten years and may meet the criteria of a sexually violent predator;

the attorney general may file a petition for detention and evaluation with the probate division of the court in which the person was convicted, or committed pursuant to chapter 552, RSMo, alleging the respondent may meet the definition of a sexually violent predator and should be detained for evaluation for a period of up to nine days. The written notice shall include the previous conviction record of the person, a description of the recent overt act, if applicable, and any other evidence which tends to show the person to be a sexually violent predator. The attorney general shall provide notice of the petition to the prosecuting attorney of the county where the petition was filed.

2. Upon a determination by the court that the person may meet the definition of a sexually violent predator, the court shall order the detention and transport of such person to a secure facility to be determined by the department of mental health **under provisions of section 632.495**. The attorney general shall immediately give written notice of such to the department of mental health.

3. Upon receiving physical custody of the person and written notice pursuant to subsection 2 of this section, the department of mental health shall, through either a psychiatrist or psychologist as defined in section 632.005, make a determination whether or not the person meets the definition of a sexually violent predator. The department of mental health shall, within seven days of receiving physical custody of the person, provide the attorney general with a written report of the results of its investigation and evaluation. The attorney general shall provide any available records of the person that are retained by the department of corrections to the department of mental health for the purposes of this section. If the department of mental health is unable to make a determination within seven days, the attorney general may request an additional detention of ninety-six hours from the court for good cause shown.

4. If the department determines that the person may meet the definition of a sexually violent predator, the attorney general shall provide the results of the investigation and evaluation to the prosecutors' review committee. The prosecutors' review committee shall, by majority vote, determine whether or not the person meets the definition of a sexually violent predator within twenty-four hours of written notice from the attorney general's office. If the prosecutors' review committee determines that the person meets the definition of a sexually violent predator, the prosecutors' review committee shall provide written notice to the attorney general of its determination. The attorney general may file a petition pursuant to section 632.486 within forty-eight hours after obtaining the results from the department.

5. For the purposes of this section "recent overt act" means any act that creates a reasonable apprehension of harm of a sexually violent nature.

6. The provisions of subdivision (2) of subsection 1 of this section shall expire December 31, 2001.

632.489. PROBABLE CAUSE DETERMINED — SEXUALLY VIOLENT PREDATOR TAKEN INTO CUSTODY, WHEN — HEARING, PROCEDURE — EXAMINATION BY DEPARTMENT OF MENTAL HEALTH. — 1. Upon filing a petition pursuant to section 632.484 or 632.486, the judge shall determine whether probable cause exists to believe that the person named in the petition is a sexually violent predator. If such probable cause determination is made, the judge shall direct that person be taken into custody and direct that the person be transferred to an appropriate secure facility, including, but not limited to, a county jail. If the person is ordered to the department of mental health, the director of the department of mental health shall determine the appropriate secure facility to house the person **under the provisions of section 632.495.**

2. Within seventy-two hours after a person is taken into custody pursuant to subsection 1 of this section, excluding Saturdays, Sundays and legal holidays, such person shall be provided with notice of, and an opportunity to appear in person at, a hearing to contest probable cause as to whether the detained person is a sexually violent predator. At this hearing the court shall:

(1) Verify the detainee's identity; and

(2) Determine whether probable cause exists to believe that the person is a sexually violent predator. The state may rely upon the petition and supplement the petition with additional documentary evidence or live testimony.

3. At the probable cause hearing as provided in subsection 2 of this section, the detained person shall have the following rights in addition to the rights previously specified:

(1) To be represented by counsel;

(2) To present evidence on such person's behalf;

(3) To cross-examine witnesses who testify against such person; and

(4) To view and copy all petitions and reports in the court file, including the assessment of the multidisciplinary team.

4. If the probable cause determination is made, the court shall direct that the person be transferred to an appropriate secure facility, including, but not limited to, a county jail, for an evaluation as to whether the person is a sexually violent predator. If the person is ordered to the department of mental health, the director of the department of mental health shall determine the appropriate secure facility to house the person. The court shall direct the director of the department of mental health to have the person examined by a psychiatrist or psychologist as defined in section 632.005 who was not a member of the multidisciplinary team that previously reviewed the person's records. In addition, such person may be examined by a consenting psychiatrist or psychologist of the person's choice at the person's own expense. Any examination shall be conducted in the facility in which the person is confined. Any examinations ordered shall be made at such time and under such conditions as the court deems proper; except that, if the order directs the director of the department of mental health to have the person examined, the director shall determine the time, place and conditions under which the examination shall be conducted. The psychiatrist or psychologist conducting such an examination shall be authorized to interview family and associates of the person being examined, as well as victims and witnesses of the person's offense or offenses, for use in the examination unless the court for good cause orders otherwise. The psychiatrist or psychologist shall have access to all materials provided to and considered by the multidisciplinary team and to any police reports related to sexual offenses committed by the person being examined. Any examination performed pursuant to this section shall be completed and filed with the court within sixty days of the date the order is received by the director or other evaluator unless the court for good cause orders otherwise. One examination shall be provided at no charge by the department. All costs of any subsequent evaluations shall be assessed to the party requesting the evaluation.

632.495. UNANIMOUS VERDICT REQUIRED — OFFENDER COMMITTED TO CUSTODY OF DEPARTMENT OF MENTAL HEALTH, WHEN — RELEASE, WHEN — MISTRIAL PROCEDURES. — 1. The court or jury shall determine whether, [beyond a reasonable doubt] **by clear and**

convincing evidence, the person is a sexually violent predator. If such determination that the person is a sexually violent predator is made by a jury, such determination shall be by unanimous verdict of such jury. Any determination as to whether a person is a sexually violent predator may be appealed.

2. If the court or jury determines that the person is a sexually violent predator, the person shall be committed to the custody of the director of the department of mental health for control, care and treatment until such time as the person's mental abnormality has so changed that the person is safe to be at large. Such control, care and treatment shall be provided by the department of mental health.

3. At all times, **persons ordered to the department of mental health after a determination by the court that such persons may meet the definition of a sexually violent predator, persons ordered to the department of mental health after a finding of probable cause under section 632.489, and** persons committed for control, care and treatment by the department of mental health pursuant to sections 632.480 to 632.513 shall be kept in a secure facility designated by the director of the department of mental health and such persons shall be segregated at all times from any other patient under the supervision of the director of the department of mental health. The department of mental health shall not place or house [an offender determined to be a sexually violent predator] **a person ordered to the department of mental health after a determination by the court that such person may meet the definition of a sexually violent predator, a person ordered to the department of mental health after a finding of probable cause under section 632.489, or a person committed for control, care, and treatment by the department of mental health**, pursuant to sections 632.480 to 632.513, with other mental health patients [who have not been determined to be sexually violent predators]. **The provisions of this subsection shall not apply to a person who has been conditionally released under section 632.505.**

4. The department of mental health is authorized to enter into an interagency agreement with the department of corrections for the confinement of such persons. Such persons who are in the confinement of the department of corrections pursuant to an interagency agreement shall be housed and managed separately from offenders in the custody of the department of corrections, and except for occasional instances of supervised incidental contact, shall be segregated from such offenders.

5. If the court or jury is not satisfied [beyond a reasonable doubt] **by clear and convincing evidence** that the person is a sexually violent predator, the court shall direct the person's release.

6. Upon a mistrial, the court shall direct that the person be held at an appropriate secure facility, including, but not limited to, a county jail, until another trial is conducted. If the person is ordered to the department of mental health, the director of the department of mental health shall determine the appropriate secure facility to house the person. Any subsequent trial following a mistrial shall be held within ninety days of the previous trial, unless such subsequent trial is continued as provided in section 632.492.

632.498. ANNUAL EXAMINATION OF MENTAL CONDITION, NOT REQUIRED, WHEN — ANNUAL REVIEW BY THE COURT — PETITION FOR RELEASE, HEARING, PROCEDURES (WHEN DIRECTOR DISAPPROVES). — 1. Each person committed pursuant to sections 632.480 to 632.513 shall have a current examination of the person's mental condition made once every year by the director of the department of mental health or designee. The yearly report shall be provided to the court that committed the person pursuant to sections 632.480 to 632.513. The court shall conduct an annual review of the status of the committed person. **The court shall not conduct an annual review of a person's status if he or she has been conditionally released pursuant to section 632.505.**

2. Nothing contained in sections 632.480 to 632.513 shall prohibit the person from otherwise petitioning the court for [discharge] **release**. The director of the department of mental

health shall provide the committed person **who has not been conditionally released** with an annual written notice of the person's right to petition the court for release over the director's objection. The notice shall contain a waiver of rights. The director shall forward the notice and waiver form to the court with the annual report.

3. If the committed person petitions the court for conditional release over the director's objection, the petition shall be served upon the court that committed the person, the director of the department of mental health, the head of the facility housing the person, and the attorney general.

4. The committed person shall have a right to have an attorney represent the person at the hearing but the person is not entitled to be present at the hearing. If the court at the hearing determines by a preponderance of the evidence that the person no longer suffers from a mental abnormality that makes the person likely to engage in acts of sexual violence if [discharged] **released**, then the court shall set a [hearing] **trial** on the issue. [At the hearing, the]

5. The trial shall be governed by the following provisions:

(1) **The** committed person shall be entitled to be present and entitled to the benefit of all constitutional protections that were afforded the person at the initial commitment proceeding [.] ;

(2) The attorney general shall represent the state and shall have a right to a jury trial and to have the committed person evaluated by a psychiatrist or psychologist not employed by the department of mental health or the department of corrections. In addition, the person may be examined by a consenting psychiatrist or psychologist of the person's choice at the person's own expense[.] ;

(3) The burden of proof at the trial shall be upon the state to prove [beyond a reasonable doubt] **by clear and convincing evidence** that the committed person's mental abnormality remains such that the person is not safe to be at large and if released is likely to engage in acts of sexual violence. **If such determination is made by a jury, the verdict must be unanimous;**

(4) **If the court or jury finds that the person's mental abnormality remains such that the person is not safe to be at large and if released is likely to engage in acts of sexual violence, the person shall remain in the custody of the department of mental health in a secure facility designated by the director of the department of mental health. If the court or jury finds that the person's mental abnormality has so changed that the person is not likely to commit acts of sexual violence if released, the person shall be conditionally released as provided in section 632.505.**

632.501. PETITION FOR RELEASE — HEARING (WHEN DIRECTOR APPROVES). — If the director of the department of mental health determines that the person's mental abnormality has so changed that the person is not likely to commit acts of sexual violence if released, the director shall authorize the person to petition the court for release. The petition shall be served upon the court **that committed the person, the director of the department of mental health, the head of the facility housing the person,** and the attorney general. [The court, upon receipt of the petition for release, shall order a hearing within thirty days. The attorney general shall represent the state, and shall have the right to have the petitioner examined by a consenting psychiatrist or psychologist not employed by the department of mental health or department of corrections. The hearing shall be before a jury if demanded by either the petitioner or the attorney general. The burden of proof shall be upon the attorney general to show beyond a reasonable doubt that the petitioner's mental abnormality remains such that the petitioner is not safe to be at large and that if discharged is likely to commit acts of sexual violence.] **The hearing and trial, if any, shall be conducted according to the provisions of section 632.498.**

632.504. SUBSEQUENT PETITIONS FOR RELEASE — APPROVAL OR DENIAL PROCEDURES. — Nothing in sections 632.480 to 632.513 shall prohibit a person from filing a petition for

[discharge] **release** pursuant to sections 632.480 to 632.513. However, if a person has previously filed a petition for [discharge] **release** without the director's [of the department of mental health] approval and the court determined either upon review of the petition or following a hearing, that the petitioner's petition was frivolous or that the petitioner's condition had not so changed that the person was safe to be at large, then the court shall deny the subsequent petition unless the petition contains facts upon which a court could find the condition of the petitioner had so changed that a hearing was warranted. Upon receipt of a first or subsequent petition from committed persons without the director's approval, the court shall endeavor whenever possible to review the petition and determine if the petition is based upon frivolous grounds and if so shall deny the petition without a hearing.

632.505. CONDITIONAL RELEASE — INTERAGENCY AGREEMENTS FOR SUPERVISION, PLAN — COURT REVIEW OF PLAN, ORDER, CONDITIONS — COPY OF ORDER — CONTINUING CONTROL AND CARE — MODIFICATIONS — VIOLATIONS — AGREEMENTS WITH PRIVATE ENTITIES — FEE, RULEMAKING AUTHORITY — ESCAPE. — 1. Upon determination by a court or jury that the person's mental abnormality has so changed that the person is not likely to commit acts of sexual violence if released, the court shall place the person on conditional release pursuant to the terms of this section. The primary purpose of conditional release is to provide outpatient treatment and monitoring to prevent the person's condition from deteriorating to the degree that the person would need to be returned to a secure facility designated by the director of the department of mental health.

2. The department of mental health is authorized to enter into an interagency agreement with the department of corrections for the supervision of persons granted a conditional release by the court. In conjunction with the department of corrections, the department of mental health shall develop a conditional release plan which contains appropriate conditions for the person to be released. The plan shall address the person's need for supervision, counseling, medication, community support services, residential services, vocational services, and alcohol and drug treatment. The department of mental health shall submit the proposed plan for conditional release to the court.

3. The court shall review the plan and determine the conditions that it deems necessary to meet the person's need for treatment and supervision and to protect the safety of the public. The court shall order that the person shall be subject to the following conditions and other conditions as deemed necessary:

- (1) Maintain a residence approved by the department of mental health and not change residence unless approved by the department of mental health;
 - (2) Maintain employment unless engaged in other structured activity approved by the department of mental health;
 - (3) Obey all federal and state laws;
 - (4) Not possess a firearm or dangerous weapon;
 - (5) Not be employed or voluntarily participate in an activity that involves contact with children without approval of the department of mental health;
 - (6) Not consume alcohol or use a controlled substance except as prescribed by a treating physician and to submit, upon request, to any procedure designed to test for alcohol or controlled substance use;
 - (7) Not associate with any person who has been convicted of a felony unless approved by the department of mental health;
 - (8) Not leave the state without permission of the department of mental health;
 - (9) Not have contact with specific persons, including but not limited to, the victim or victim's family, as directed by the department of mental health;
 - (10) Not have any contact with any child without specific approval by the department of mental health;
 - (11) Not possess material that is pornographic, sexually oriented, or sexually stimulating;
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(12) Not enter a business providing sexually stimulating or sexually oriented entertain-ment;

(13) Submit to a polygraph, plethysmograph, or other electronic or behavioral monitoring or assessment;

(14) Submit to electronic monitoring which may be based on a global positioning system or other technology which identifies and records a person's location at all times;

(15) Attend and fully participate in assessment and treatment as directed by the department of mental health;

(16) Take all psychiatric medications as prescribed by a treating physician;

(17) Authorize the department of mental health to access and obtain copies of confidential records pertaining to evaluation, counseling, treatment, and other such records and provide the consent necessary for the release of any such records;

(18) Pay fees to the department of mental health and the department of corrections to cover the costs of services and monitoring;

(19) Report to or appear in person as directed by the department of mental health and the department of corrections, and to follow all directives of such departments;

(20) Comply with any registration requirements under sections 589.400 to 589.425, RSMo; and

(21) Comply with any other conditions that the court determines to be in the best interest of the person and society.

4. The court shall provide a copy of the order containing the conditions of release to the person, the attorney general, the department of mental health, the head of the facility housing the person, and the department of corrections.

5. A person who is conditionally released and supervised by a probation and parole officer employed by the department of corrections remains under the control, care, and treatment of the department of mental health.

6. The court may modify conditions of release upon its own motion or upon the petition of the department of mental health, the department of corrections, or the person on conditional release.

7. The following provisions shall apply to violations of conditional release:

(1) If any probation and parole officer has reasonable cause to believe that a person on conditional release has violated a condition of release or that the person is no longer a proper subject for conditional release, the officer may issue a warrant for the person's arrest. The warrant shall contain a brief recitation of the facts supporting the officer's belief. The warrant shall direct any peace officer to take the person into custody immediately so that the person can be returned to a secure facility;

(2) If the director of the department of mental health or the director's designee has reasonable cause to believe that a person on conditional release has violated a condition of release or that the person is no longer a proper subject for conditional release, the director or the director's designee may request that a peace officer take the person into custody immediately, or request that a probation and parole officer or the court which ordered the release, issue a warrant for the person's arrest so that the person can be returned to a secure facility;

(3) At any time during the period of a conditional release, the court which ordered the release may issue a notice to the released person to appear to answer a charge of a violation of the terms of the release and the court may issue a warrant of arrest for the violation. Such notice shall be personally served upon the released person. The warrant shall authorize the return of the released person to the custody of the court or to the custody of the director of mental health or the director's designee;

(4) No peace officer responsible for apprehending and returning the person to the facility upon the request of the director of the department of mental health or the director's designee or a probation and parole officer shall be civilly liable for

apprehending or transporting such person to the facility so long as such duties were performed in good faith and without negligence;

(5) The department of mental health shall promptly notify the court that the person has been apprehended and returned to a secure facility;

(6) Within seven days of the person's return to a secure facility, the department of mental health must either request that the attorney general file a petition to revoke the person's conditional release or continue the person on conditional release;

(7) If a petition to revoke conditional release is filed, the person shall remain in custody until a hearing is held on the petition. The hearing shall be given priority on the court's docket. If upon hearing the evidence, the court finds by preponderance of the evidence that the person has violated a condition of release and that the violation of the condition was sufficient to render the person no longer suitable for conditional release, the court shall revoke the conditional release and order the person returned to a secure facility designated by the director of the department of mental health. If the court determines that revocation is not required, the court may modify or increase the conditions of release or order the person's release on the existing conditions of release;

(8) A person whose conditional release has been revoked may petition the court for subsequent release pursuant to sections 632.498, 632.501, and 632.504 no sooner than six months after the person's return to a secure facility.

8. The department of mental health may enter into agreements with the department of corrections and other departments and may enter into contracts with private entities for the purpose of supervising a person on conditional release.

9. The department of mental health and the department of corrections may require a person on conditional release to pay a reasonable fee to cover the costs of providing services and monitoring while the person is released. Each department may adopt rules with respect to establishing, waiving, collecting, and using fees. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

10. In the event a person on conditional release escapes from custody, the department of mental health shall notify the court, the department of corrections, the attorney general, the chief law enforcement officer of the county or city not within a county from where the person escaped or absconded, and any other persons necessary to protect the safety of the public or to assist in the apprehension of the person. The attorney general shall notify victims and witnesses. Upon receiving such notice, the attorney general shall file escape from commitment charges under section 575.195, RSMo.

632.507. ATTORNEY GENERAL TO INFORM VICTIMS — NOTIFICATION OF PROCEEDINGS. — 1. The attorney general shall in a timely manner inform victims of a sexually violent offense committed by a person:

(1) That a written notice has been given by the agency with jurisdiction to the attorney general and the multidisciplinary team pursuant to subsection 1 of section 632.483;

(2) Of the decision of the prosecutor's review committee in determining whether or not the person may be a sexually violent predator;

(3) That a petition has been filed with the circuit court pursuant to section 632.484 or 632.486;

(4) Of the outcome of a trial held pursuant to the provisions of section 632.492;

(5) Of the filing of any petition or pending proceedings held pursuant to the provisions of sections 632.498 to [632.504] **632.505**;

(6) Of the escape of any person committed under sections 632.480 to 632.513.

2. Such victims shall have the right to be present at any proceeding held pursuant to the provisions of sections 632.480 to 632.513. Failure to notify shall not be a reason for postponement of release. Nothing in this section shall create a cause of action against the state or an employee of the state acting within the scope of the employee's employment as a result of the failure to notify pursuant to this section.

650.120. GRANTS TO FUND INVESTIGATIONS OF INTERNET SEX CRIMES AGAINST CHILDREN — PANEL, MEMBERSHIP, TERMS — LOCAL MATCHING AMOUNTS — PRIORITIES — TRAINING STANDARDS — INFORMATION SHARING — PANEL RECOMMENDATION — SUNSET PROVISION. — 1. Subject to appropriation, the department of public safety shall create a program to distribute grants to multijurisdictional Internet cyber crime law enforcement task forces and other law enforcement agencies. The grants shall be awarded and used to pay the salaries of detectives and computer forensic personnel whose focus is investigating Internet sex crimes against children, including but not limited to enticement of a child, possession or promotion of child pornography, and to provide funding for the training of law enforcement personnel. The funding for such training may be used to cover the travel expenses of those persons participating.

2. A panel is hereby established in the department of public safety to award grants under this program and shall be comprised of the following members:

- (1) The director of the department of public safety, or his or her designee;
- (2) Two members shall be appointed by the director of the department of public safety from a list of six nominees submitted by the Missouri Police Chief's Association;
- (3) Two members shall be appointed by the director of the department of public safety from a list of six nominees submitted by the Missouri Sheriffs' Association;
- (4) Two members of the state highway patrol shall be appointed by the director of the department of public safety from a list of six nominees submitted by the Missouri State Troopers Association;
- (5) One member of the house of representatives who shall be appointed by the speaker of the house of representatives; and
- (6) One member of the senate who shall be appointed by the president pro tem.

The panel members who are appointed under subdivisions (2), (3), and (4) of this subsection shall serve a four-year term ending four years from the date of expiration of the term for which his or her predecessor was appointed. However, a person appointed to fill a vacancy prior to the expiration of such a term shall be appointed for the remainder of the term. Such members shall hold office for the term of his or her appointment and until a successor is appointed. The members of the panel shall receive no additional compensation but shall be eligible for reimbursement for mileage directly related to the performance of panel duties.

3. Local matching amounts, which may include new or existing funds or in-kind resources including but not limited to equipment or personnel, are required for multijurisdictional Internet cyber crime law enforcement task forces and other law enforcement agencies to receive grants awarded by the panel. Such amounts shall be determined by the state appropriations process or by the panel.

4. When awarding grants, priority should be given to newly hired detectives and computer forensic personnel.

5. The panel shall establish minimum training standards for detectives and computer forensic personnel participating in the grant program established in subsection 1 of this section.

6. Multijurisdictional Internet cyber crime law enforcement task forces and other law enforcement agencies participating in the grant program established in subsection 1 of this section shall share information and cooperate with the highway patrol and with existing Internet Crimes Against Children task force programs.

7. The panel may make recommendations to the general assembly regarding the need for additional resources or appropriations.

8. Under section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall sunset automatically six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall sunset automatically twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

SECTION 1. NOTIFICATION OF MONITORING TO HIGHWAY PATROL — INFORMATION ENTERED INTO MULES AND SEXUAL OFFENDER REGISTRY. — 1. The department of corrections shall notify the highway patrol of any offender who is required as a mandatory condition of lifetime supervision to be electronically monitored, under section 217.735, RSMo, and section 559.106, RSMo, and shall notify the highway patrol when the supervision of the offender has been terminated in appropriate cases as determined by a risk assessment when the offender is sixty-five years of age or older.

2. The highway patrol shall enter the electronic monitoring of the offender into the Missouri law enforcement system (MULES) and sexual offender registry where it is available to members of the criminal justice system, and other entities as provided by law, upon inquiry.

SECTION B. EMERGENCY CLAUSE. — Because of the need to protect Missouri citizens from sexual offenders, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved June 5, 2006

HB 1703 [HCS#2 HB 1703]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding insurance pooling by political subdivisions

AN ACT to repeal sections 537.620 and 537.640, RSMo, and to enact in lieu thereof two new sections relating to insurance pooling.

SECTION

A. Enacting clause.

537.620. Political subdivisions may jointly create entity to provide insurance — entity created not deemed an insurance company or insurer.

537.640. Director of insurance to examine — renewal license fee — amendments to articles.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 537.620 and 537.640, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 537.620 and 537.640, to read as follows:

537.620. POLITICAL SUBDIVISIONS MAY JOINTLY CREATE ENTITY TO PROVIDE INSURANCE — ENTITY CREATED NOT DEEMED AN INSURANCE COMPANY OR INSURER. — Notwithstanding any direct or implied prohibitions in chapter 375, RSMo, 377, RSMo, or 379, RSMo, any three or more political subdivisions of this state may form a business entity for the purpose of providing liability and all other insurance, including insurance for elderly or low-income housing in which the political subdivision has an insurable interest, for any of the subdivisions upon the assessment plan as provided in sections 537.600 to 537.650. Any **public governmental body or quasi-public governmental body, as defined in section 610.010, RSMo, and any political subdivision of this state or any other state** may join this entity and use public funds to pay any necessary assessments. **Except for being subject to the regulation of the director of insurance under sections 375.930 to 375.948, RSMo, sections 375.1000 to 375.1018, RSMo, and sections 537.600 to 537.650, any such business entity shall not be deemed to be an insurance company or insurer under the laws of this state, and the coverage provided by such entity and the administration of such entity shall not be deemed to constitute the transaction of an insurance business.**

537.640. DIRECTOR OF INSURANCE TO EXAMINE — RENEWAL LICENSE FEE — AMENDMENTS TO ARTICLES. — 1. The director of insurance shall be authorized in accordance with [sections 375.171 and 375.173] **section 374.205, RSMo,** to examine into the affairs of any association organized under the provisions of sections 537.620 to 537.650 and may, in accordance with section [375.426] **374.045, RSMo,** make such rules and regulations as may be necessary for the execution of the functions vested in him. Annually thereafter, within thirty days before the expiration of its license, each association shall pay a renewal license fee of one hundred dollars and shall file a statement with the director of insurance giving a report of its activities for the preceding year.

2. Any existing association shall also, at the time it files for renewal of its license, file any amendments to its articles of association or bylaws which have been adopted in the preceding year.

Approved June 21, 2006

HB 1707 [SCS HB 1707]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Allows the State Registrar within the Department of Health and Senior Services to appoint a local registrar and allows instruments affecting real property in Jackson County to be recorded in Independence

AN ACT to repeal sections 59.170 and 193.065, RSMo, and to enact in lieu thereof two new sections relating to local officials.

SECTION

- A. Enacting clause.
- 59.170. Branch of Jackson County recorder's office in Kansas City — recording of documents at county seat of Jackson County permitted.
- 193.065. Local registrars, qualifications, appointment — deputies — duties — recorder of deeds appointed as local registrar (St. Louis City).

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 59.170 and 193.065, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 59.170 and 193.065, to read as follows:

59.170. BRANCH OF JACKSON COUNTY RECORDER'S OFFICE IN KANSAS CITY — RECORDING OF DOCUMENTS AT COUNTY SEAT OF JACKSON COUNTY PERMITTED. — The recorder of deeds for Jackson County, Missouri, shall open an office at Kansas City, in which [shall] **may** be recorded [all] deeds, deeds of trust, mortgages and other instruments affecting real property situated [in range thirty-three] in that county, and in which [shall] **may** be filed or filed for record all financing statements and other instruments or statements incidental thereto affecting personal property, fixtures, or other collateral [as to which it is the proper place, or one of the proper places, to file or to file for record as provided by law]. **Deeds, deeds of trust, mortgages, and other instruments affecting real property, and financing statements and other instruments incidental thereto affecting personal property, fixtures, or other collateral may also be recorded or filed for record at the recorder's office located at the county seat of any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants.**

193.065. LOCAL REGISTRARS, QUALIFICATIONS, APPOINTMENT — DEPUTIES — DUTIES — RECORDER OF DEEDS APPOINTED AS LOCAL REGISTRAR (ST. LOUIS CITY). — The state registrar may appoint local registrars, each of whom shall be a person employed by an official county **or city** health agency except as otherwise herein provided. Each local registrar shall be authorized under the provisions of section 193.255 and subsection 2 of section 193.265 to issue certifications of death records. A local registrar, with the approval of the state registrar, may appoint deputies to carry out some or all of the responsibilities of the local registrar as provided in sections 193.005 to 193.325 or the regulations promulgated pursuant thereto. The local registrars shall immediately report to the state registrar violations of sections 193.005 to 193.325 or the regulations promulgated pursuant thereto. In any city not within a county, the state registrar shall appoint the recorder of deeds for such city as the local registrar.

Approved June 29, 2006

HB 1715 [HB 1715]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Grants appraisal rights to all voting and non-voting shareholders of a corporation which is a party to a merger or consolidation

AN ACT to repeal sections 351.295, 351.355, and 351.455, RSMo, and to enact in lieu thereof three new sections relating to corporations.

SECTION

A. Enacting clause.

351.295. Stock certificate, form, contents, authorized signatures.

351.355. Officer, director, employee, or agent of corporation indemnified, when, methods authorized.

351.455. Shareholder entitled to appraisal and payment of fair value, when — remedy exclusive, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 351.295, 351.355, and 351.455, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 351.295, 351.355, and 351.455, to read as follows:

351.295. STOCK CERTIFICATE, FORM, CONTENTS, AUTHORIZED SIGNATURES. — 1. The shares of a corporation shall be represented by certificates, provided that the articles of incorporation or bylaws, or a resolution or resolutions of the board of directors of the corporation, may provide that some or all of any or all classes or series of its stock shall be uncertificated shares. Any such provision of the articles of incorporation or bylaws or resolution of the board of directors shall not apply to shares represented by a certificate until such certificate is surrendered to the corporation. Notwithstanding such a provision of the articles of incorporation or bylaws, or the adoption of such a resolution by the board of directors, every holder of stock represented by certificates shall be entitled to have a certificate. **Except as otherwise provided in the articles of incorporation or bylaws, such certificate shall be** signed by the president or a vice president and by the secretary or an assistant secretary or the treasurer or an assistant treasurer of such corporation and sealed with the seal of the corporation. Any or all the signatures on the certificate may be a facsimile and the seal may be facsimile, engraved or printed. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed on a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, the certificate may nevertheless be issued by the corporation with the same effect as if the person were an officer, transfer agent or registrar at the date of issue. Every holder of uncertificated shares is entitled to receive a statement of holdings as evidence of share ownership.

2. Every certificate for shares without par value shall have plainly stated upon its face the number of shares which it represents, and no certificate shall express any par value for such shares or a rate of dividend to which such shares shall be entitled in terms of percentage of any par or other value.

351.355. OFFICER, DIRECTOR, EMPLOYEE, OR AGENT OF CORPORATION INDEMNIFIED, WHEN, METHODS AUTHORIZED. — 1. A corporation created under the laws of this state may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative or investigative, other than an action by or in the right of the corporation, by reason of the fact that he or she is or was a director, officer, employee or agent of the corporation, or is or was serving

at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

2. The corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that he or she is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses, including attorneys' fees, and amounts paid in settlement actually and reasonably incurred by him in connection with the defense or settlement of the action or suit if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation; except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his or her duty to the corporation unless and only to the extent that the court in which the action or suit was brought determines upon application that, despite the adjudication of liability and in view of all the circumstances of the case, the person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

3. Except as otherwise provided in the articles of incorporation or the bylaws, to the extent that a director, officer, employee or agent of the corporation has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in subsections 1 and 2 of this section, or in defense of any claim, issue or matter therein, he or she shall be indemnified against expenses, including attorneys' fees, actually and reasonably incurred by him in connection with the action, suit, or proceeding.

4. Any indemnification under subsections 1 and 2 of this section, unless ordered by a court, shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he or she has met the applicable standard of conduct set forth in this section. The determination shall be made by the board of directors by a majority vote of a quorum consisting of directors who were not parties to the action, suit, or proceeding, or if such a quorum is not obtainable, or even if obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or by the shareholders.

5. Expenses incurred in defending [a] **any** civil [or], criminal, **administrative, or investigative** action, suit or proceeding may be paid by the corporation in advance of the final disposition of the action, suit, or proceeding as authorized by the board of directors in the specific case upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he or she is entitled to be indemnified by the corporation as authorized in this section.

6. The indemnification provided by this section shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the articles of incorporation or bylaws or any agreement, vote of shareholders or disinterested directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director,

officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

7. A corporation created under the laws of this state shall have the power to give any further indemnity, in addition to the indemnity authorized or contemplated under other subsections of this section, including subsection 6, to any person who is or was a director, officer, employee or agent, or to any person who is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, provided such further indemnity is either (i) authorized, directed, or provided for in the articles of incorporation of the corporation or any duly adopted amendment thereof or (ii) is authorized, directed, or provided for in any bylaw or agreement of the corporation which has been adopted by a vote of the shareholders of the corporation, and provided further that no such indemnity shall indemnify any person from or on account of such person's conduct which was finally adjudged to have been knowingly fraudulent, deliberately dishonest or willful misconduct. Nothing in this subsection shall be deemed to limit the power of the corporation under subsection 6 of this section to enact bylaws or to enter into agreements without shareholder adoption of the same.

8. The corporation may purchase and maintain insurance or another arrangement on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the corporation would have the power to indemnify him against such liability under the provisions of this section. Without limiting the power of the corporation to procure or maintain any kind of insurance or other arrangement the corporation may for the benefit of persons indemnified by the corporation create a trust fund, establish any form of self insurance, secure its indemnity obligation by grant of a security interest or other lien on the assets of the corporation, or establish a letter of credit, guaranty, or surety arrangement. The insurance or other arrangement may be procured, maintained, or established within the corporation or with any insurer or other person deemed appropriate by the board of directors regardless of whether all or part of the stock or other securities of the insurer or other person are owned in whole or in part by the corporation. In the absence of fraud the judgment of the board of directors as to the terms and conditions of the insurance or other arrangement and the identity of the insurer or other person participating in an arrangement shall be conclusive and the insurance or arrangement shall not be voidable and shall not subject the directors approving the insurance or arrangement to liability on any ground regardless of whether directors participating in the approval are beneficiaries of the insurance arrangement.

9. Any provision of this chapter to the contrary notwithstanding, the provisions of this section shall apply to all existing and new domestic corporations, including but not limited to banks, trust companies, insurance companies, building and loan associations, savings bank and safe deposit companies, mortgage loan companies, corporations formed for benevolent, religious, scientific or educational purposes and nonprofit corporations.

10. For the purpose of this section, references to "the corporation" include all constituent corporations absorbed in a consolidation or merger as well as the resulting or surviving corporation so that any person who is or was a director, officer, employee or agent of such a constituent corporation or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise shall stand in the same position under the provisions of this section with respect to the resulting or surviving corporation as he or she would if he or she had served the resulting or surviving corporation in the same capacity.

11. For purposes of this section, the term "other enterprise" shall include employee benefit plans; the term "fines" shall include any excise taxes assessed on a person with respect to an employee benefit plan; and the term "serving at the request of the corporation" shall include any

service as a director, officer, employee or agent of the corporation which imposes duties on, or involves services by, such director, officer, employee, or agent with respect to an employee benefit plan, its participants, or beneficiaries; and a person who acted in good faith and in a manner he or she reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the corporation" as referred to in this section.

351.455. SHAREHOLDER ENTITLED TO APPRAISAL AND PAYMENT OF FAIR VALUE, WHEN — REMEDY EXCLUSIVE, WHEN. — 1. [If a shareholder of a corporation which is a party to a merger or consolidation and, in the case of a shareholder owning voting stock as of the record date, at the meeting of shareholders at which the plan of merger or consolidation is submitted to a vote shall file with such corporation prior to or at such meeting a written objection to such plan of merger or consolidation, and shall not vote in favor thereof, and such shareholder, within twenty days after the merger or consolidation is effected, shall make written demand on the surviving or new corporation for payment of the fair value of his or her shares as of the day prior to the date on which the vote was taken approving the merger or consolidation,] **Any shareholder shall be deemed a dissenting shareholder and entitled to appraisal under this section if such shareholder:**

(1) **Owns stock of a corporation which is a party to a merger or consolidation as of the record date for the meeting of shareholders at which the plan of merger or consolidation is submitted to a vote;**

(2) **Files with the corporation before or at such meeting a written objection to such plan of merger or consolidation;**

(3) **Does not vote in favor thereof if the shareholder owns voting stock as of such record date; and**

(4) **Makes written demand on the surviving or new corporation within twenty days after the merger or consolidation is effected for payment of the fair value of such shareholder's shares as of the day before the date on which the vote was taken approving the merger or consolidation.**

2. The surviving or new corporation shall pay to **each** such **dissenting** shareholder, upon surrender of his or her certificate or certificates representing said shares **in the case of certificated shares**, the fair value thereof. Such demand shall state the number and class of the shares owned by such dissenting shareholder. Any shareholder [failing to make demand within the twenty-day period] **who:**

(1) **Fails to file a written objection prior to or at such meeting;**

(2) **Fails to make demand within the twenty-day period; or**

(3) **In the case of a shareholder owning voting stock as of such record date, votes in favor of the merger or consolidation;**

shall be conclusively presumed to have consented to the merger or consolidation and shall be bound by the terms thereof **and shall not be deemed to be a dissenting shareholder.**

3. **Notwithstanding the provisions of subsection 1 of section 351.230, notice under the provisions of subsection 1 of section 351.230 stating the purpose for which the meeting is called shall be given to each shareholder owning stock as of the record date for the meeting of shareholders at which the plan of merger or consolidation is submitted to a vote, whether or not such shareholder is entitled to vote.**

[2.] 4. If within thirty days after the date on which such merger or consolidation was effected the value of such shares is agreed upon between the dissenting shareholder and the surviving or new corporation, payment therefor shall be made within ninety days after the date on which such merger or consolidation was effected, upon the surrender of his or her certificate or certificates representing said shares **in the case of certificated shares**. Upon payment of the agreed value the dissenting shareholder shall cease to have any interest in such shares or in the corporation.

[3.] 5. If within such period of thirty days the shareholder and the surviving or new corporation do not so agree, then the dissenting shareholder may, within sixty days after the expiration of the thirty-day period, file a petition in any court of competent jurisdiction within the county in which the registered office of the surviving or new corporation is situated, asking for a finding and determination of the fair value of such shares, and shall be entitled to judgment against the surviving or new corporation for the amount of such fair value as of the day prior to the date on which such vote was taken approving such merger or consolidation, together with interest thereon to the date of such judgment. The judgment shall be payable only upon and simultaneously with the surrender to the surviving or new corporation of the certificate or certificates representing said shares **in the case of certificated shares**. Upon the payment of the judgment, the dissenting shareholder shall cease to have any interest in such shares, or in the surviving or new corporation. Such shares may be held and disposed of by the surviving or new corporation as it may see fit. Unless the dissenting shareholder shall file such petition within the time herein limited, such shareholder and all persons claiming under such shareholder shall be conclusively presumed to have approved and ratified the merger or consolidation, and shall be bound by the terms thereof.

[4.] 6. The right of a dissenting shareholder to be paid the fair value of such shareholder's shares as herein provided shall cease if and when the corporation shall abandon the merger or consolidation.

[5.] 7. When the remedy provided for in this section is available with respect to a transaction, such remedy shall be the exclusive remedy of the shareholder as to that transaction, except in the case of fraud or lack of authorization for the transaction.

Approved July 10, 2006

HB 1732 [HB 1732]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Requires school districts to grant authorization to students for the possession and self-administration of medications for the treatment of asthma and anaphylaxis

AN ACT to repeal section 167.627, RSMo, and to enact in lieu thereof one new section relating to the possession and self-administration of medications by pupils.

SECTION

A. Enacting clause.

167.627. Possession and self-administration of medication in school — requirements.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 167.627, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 167.627, to read as follows:

167.627. POSSESSION AND SELF-ADMINISTRATION OF MEDICATION IN SCHOOL — REQUIREMENTS. — 1. [Any board of education of any school district may permit the self-administration of medication administered by way of a metered-dose inhaler by a pupil for asthma or other potentially life-threatening respiratory illnesses provided that:

(1) The parents or guardians of the pupil provide to the board of education written authorization for the self-administration of medication and a written medical history of the pupil's

experience with the potentially life-threatening respiratory illness and a plan of action for addressing any emergency situations that could reasonably be anticipated as a consequence of administering the medication and having the potentially life-threatening respiratory illness;

(2) The parents or guardians of the pupil provide to the board of education written certification from the physician of the pupil that the pupil has asthma or another potentially life-threatening respiratory illness and is capable of, and has been instructed in, the proper method of self-administration of medication and informed of the dangers of permitting other persons to use medicine prescribed for the pupil;

(3) The board informs the parents or guardians of the pupil in writing that the district and its employees or agents shall incur no liability as a result of any injury arising from the self-administration of medication by the pupil, absent any negligence by the district, its employees or its agents, or as a result of providing all relevant information provided pursuant to subdivisions (1) and (2) of this subsection with the school nurse, absent any negligence by the district, its employees or its agents, or in the absence of such nurse, to the school administrator;

(4) The parents or guardians of the pupil sign a statement acknowledging that the district shall incur no liability as a result of any injury arising from the self-administration of medication by the pupil and that the parents or guardians shall indemnify and hold harmless the district and its employees or agents against any claims arising out of the self-administration of medication by the pupil; and

(5) The permission is effective for the school year for which it is granted and is renewed for each subsequent school year upon fulfillment of the requirements of subdivisions (1) through (4) of this subsection.

2. Nothing in this section shall be construed to prevent a school district from requiring pupils to maintain current duplicate prescription medications with the school nurse or in the absence of such nurse, the school administrator.

3. The state board of education shall promulgate such rules and regulations as it deems necessary to effectuate the purposes of this section.

4. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.] **For purposes of this section, the following terms shall mean:**

(1) **"Medication", any medicine prescribed or ordered by a physician for the treatment of asthma or anaphylaxis, including without limitation inhaled bronchodilators and auto-injectible epinephrine;**

(2) **"Self-administration", a pupil's discretionary use of medication prescribed by a physician or under a written treatment plan from a physician.**

2. Each board of education, and its employees and agents in this state shall grant any pupil in the school authorization for the possession and self-administration of medication to treat such pupil's asthma or anaphylaxis if:

(1) A licensed physician prescribed or ordered such medication for use by the pupil and instructed such pupil in the correct and responsible use of such medication;

(2) The pupil has demonstrated to the pupil's licensed physician or the licensed physician's designee, and the school nurse, if available, the skill level necessary to use the medication and any device necessary to administer such medication prescribed or ordered;

(3) The pupil's physician has approved and signed a written treatment plan for managing asthma or anaphylaxis episodes of the pupil and for medication for use by the pupil. Such plan shall include a statement that the pupil is capable of self-administering the medication under the treatment plan;

(4) The pupil's parent or guardian has completed and submitted to the school any written documentation required by the school, including the treatment plan required under subdivision (3) of this subsection and the liability statement required under subdivision (5) of this subsection; and

(5) The pupil's parent or guardian has signed a statement acknowledging that the school district and its employees or agents shall incur no liability as a result of any injury arising from the self-administration of medication by the pupil or the administration of such medication by school staff. Such statement shall not be construed to release the school district and its employees or agents from liability for negligence.

3. An authorization granted under subsection 2 of this section shall:

(1) Permit such pupil to possess and self-administer such pupil's medication while in school, at a school-sponsored activity, and in transit to or from school or school-sponsored activity; and

(2) Be effective only for the same school and school year for which it is granted. Such authorization shall be renewed by the pupil's parent or guardian each subsequent school year in accordance with this section.

4. Any current duplicate prescription medication, if provided by a pupil's parent or guardian or by the school, shall be kept at a pupil's school in a location at which the pupil or school staff has immediate access in the event of an asthma or anaphylaxis emergency.

5. The information described in subdivisions (3) and (4) of subsection 2 of this section shall be kept on file at the pupil's school in a location easily accessible in the event of an asthma or anaphylaxis emergency.

Approved July 10, 2006

HB 1739 [HCS HB 1739]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Allows a vermiculture operation, which is a business raising earthworms under a controlled environment, to receive certain agricultural loans

AN ACT to repeal sections 30.800, 30.810, 30.820, 30.830, 30.840, 30.850, and 348.015, RSMo, and to enact in lieu thereof seven new sections relating to agricultural property loans.

SECTION

- A. Enacting clause.
- 30.800. Definitions.
- 30.810. Application of linked deposits law.
- 30.820. Limitations on linked deposit loans.
- 30.830. Program funding limitation.
- 30.840. Renewal.
- 30.850. Use of proceeds.
- 348.015. Definitions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 30.800, 30.810, 30.820, 30.830, 30.840, 30.850, and 348.015, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 30.800, 30.810, 30.820, 30.830, 30.840, 30.850, and 348.015, to read as follows:

30.800. DEFINITIONS. — As used in sections 30.800 to 30.850, the following terms shall mean:

(1) "Eligible guaranteed agribusiness", a person, corporation or other business entity engaged in the processing or adding of value to agricultural products produced in Missouri, which is located in Missouri, and which has received a loan guarantee pursuant to the provisions of sections 348.400 to 348.415, RSMo;

(2) "Eligible guaranteed livestock operation", a person engaged in the production of livestock or poultry in Missouri in an authorized farm corporation, family farm, or family farm corporation as defined in section 350.010, RSMo, who has received a single-purpose animal facilities loan guarantee pursuant to the provisions of sections 348.185 to 348.225, RSMo;

(3) **"Eligible guaranteed vermiculture operation", a person, corporation, or other business entity engaged in the raising of earthworms under a controlled environment which is located in Missouri and which has received a single-purpose animal facilities loan guarantee under sections 348.185 to 348.225, RSMo.**

30.810. APPLICATION OF LINKED DEPOSITS LAW. — Except for specific provisions to the contrary in sections 30.800 to 30.850, all definitions, requirements, responsibilities, rights, remedies and other matters set forth in sections 30.750 to 30.767 shall apply to linked deposits and linked deposit loans to eligible guaranteed agribusinesses [and], eligible guaranteed livestock operations, **and eligible guaranteed vermiculture operations.**

30.820. LIMITATIONS ON LINKED DEPOSIT LOANS. — A linked deposit loan to an eligible guaranteed agribusiness [or], an eligible guaranteed livestock operation, **or an eligible guaranteed vermiculture operation** may not exceed two hundred fifty thousand dollars, and no service of separate loans to such entities may be made which exceeds such limit.

30.830. PROGRAM FUNDING LIMITATION. — The state treasurer may utilize up to sixty million dollars of the three hundred thirty million dollar linked deposit allocation for agriculture set forth in subsection 1 of section 30.753 for linked deposits for eligible guaranteed agribusinesses [and], eligible guaranteed livestock operations, **and eligible guaranteed vermiculture operations.**

30.840. RENEWAL. — The state treasurer may renew a linked deposit for an eligible guaranteed agribusiness [or], an eligible guaranteed livestock operation, **or an eligible guaranteed vermiculture operation** for additional, up to five-year, terms, not to exceed ten years.

30.850. USE OF PROCEEDS. — The proceeds of a linked deposit loan to an eligible guaranteed agribusiness [or], an eligible guaranteed livestock operation, **or an eligible guaranteed vermiculture operation** shall be used exclusively for necessary production expenses as set forth in subsection 2 of section 30.753.

348.015. DEFINITIONS. — As used in sections 348.005 to 348.225, the following terms shall mean:

(1) "Agricultural development loan", a loan for the acquisition, construction, improvement, or rehabilitation of agricultural property;

(2) "Agricultural property", any land and easements and real and personal property, including, but not limited to, buildings, structures, improvements, equipment, and livestock, which is used or is to be used in Missouri by Missouri residents for:

(a) The operation of a farm or ranch;

(b) Planting, cultivating, or harvesting cereals, natural fibers, fruits, vegetables, or trees;

(c) Grazing, feeding, or the care of livestock, poultry, or fish;
(d) Dairy production;
(e) Storing, transporting, or processing farm and ranch products, including, without limitation, facilities such as grain elevators, cotton gins, shipping heads, livestock pens, warehouses, wharfs, docks, creameries, or feed plants; [and]

(f) Supplying and conserving water, draining or irrigating land, collecting, treating, and disposing of liquid and solid waste, or controlling pollution, as needed for the operations set out in this subdivision; **and**

(g) A vermiculture operation. For purposes of this paragraph, "vermiculture" means the raising of earthworms under a controlled environment;

(3) "Authority", the Missouri agricultural and small business development authority organized pursuant to the provisions of sections 348.005 to 348.180;

(4) "Bonds", any bonds, notes, debentures, interim certificates, bond, grant, or revenue anticipation notes, or any other evidences of indebtedness;

(5) "Borrower", any individual, partnership, corporation, including a corporation or other entity organized pursuant to section 274.220, RSMo, firm, cooperative, association, trust, estate, political subdivision, state agency, or other legal entity or its representative executing a note or other evidence of a loan;

(6) "Eligible borrower", a borrower qualifying for an agricultural development loan, a small business development loan, or a small business pollution control facility loan under such criteria and priorities as may be established in rules of the authority or in procedural manuals issued thereunder for the purpose of directing the use of available loan funds on the basis of need for and value of each loan for the maintenance of the agricultural economy or small business and on the meeting of pollution control objectives and assuring conformity with conditions established by insurers or guarantors of loans and the preservation of the security of bonds or notes issued to finance the loan;

(7) "Insurer" or "guarantor", the Farmers Home Administration of the Department of Agriculture of the United States, the United States Small Business Administration, or any other or successor agency or instrumentality of the United States having power, or any insurance company qualified under Missouri law, to ensure or guarantee the payment of agricultural development loans, small business development loans, or small business pollution control facility loans and interest thereon, or any portion thereof;

(8) "Lender", any state or national bank, federal land bank, production credit association, bank for cooperatives, federal or state-chartered savings and loan association or building and loan association or small business investment company that is subject to credit examination by an agency of the state or federal government, or any other lending institution approved by the insurer or guarantor of an agricultural development loan, small business development loan, or small business pollution control facility loan which undertakes to make or service such a loan;

(9) "Pollution", any form of environmental pollution including, but not limited to, water pollution, air pollution, land pollution, solid waste pollution, thermal pollution, radiation contamination, or noise pollution;

(10) "Pollution control facility" or "facilities", any land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any combination thereof, and all real and personal property deemed necessary therewith, having to do with, or the end purpose of which is, reducing, controlling, or preventing pollution;

(11) "Small business", those enterprises which, at the time of their application to the authority, meet the criteria, as interpreted and applied by the authority, for definition as a "small business" established for the Small Business Administration and set forth in Section 121.301 of Part 121 of Title 13 of the Code of Federal Regulations;

(12) "Small business development loan", a loan for the acquisition, construction, improvement, or rehabilitation of property owned or to be acquired by a small business as defined herein;

(13) "Small business pollution control facility loan", a loan for the acquisition, construction, improvement, or rehabilitation of a pollution control facility or facilities by a small business;

(14) "Value-added agricultural products", any product or products that are the result of:

(a) Using an agricultural product grown in this state to produce a meat or dairy product in this state;

(b) A change in the physical state or form of the original agricultural product;

(c) An agricultural product grown in this state whose value has been enhanced by special production methods such as organically grown products; or

(d) A physical segregation of a commodity or agricultural product grown in this state that enhances its value such as identity preserved marketing systems.

Approved June 21, 2006

HB 1759 [HCS HB 1759]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding the licensing of athletic trainers

AN ACT to repeal sections 334.706, 334.708, 334.715, and 334.721, RSMo, and to enact in lieu thereof four new sections relating to athletic trainers.

SECTION

A. Enacting clause.

334.706. Board of healing arts, powers and duties — rules and regulations, procedure.

334.708. Qualifications of athletic trainers seeking licensure.

334.715. Refusal — suspension — revocation of license, grounds — reinstatement, procedure.

334.721. Athletic trainers not to be construed as practicing medicine — persons exempt from registration provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 334.706, 334.708, 334.715, and 334.721, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 334.706, 334.708, 334.715, and 334.721, to read as follows:

334.706. BOARD OF HEALING ARTS, POWERS AND DUTIES — RULES AND REGULATIONS, PROCEDURE. — 1. The board shall license applicants who meet the qualifications for athletic trainers, who file for licensure, and who pay all fees required for this licensure.

2. The board shall:

(1) Prescribe application forms to be furnished to all persons seeking licensure pursuant to sections 334.700 to 334.725;

(2) [Prepare and conduct examinations for applicants for licensure pursuant to sections 334.700 to 334.725;

(3)] Prescribe the form and design of the licensure to be issued pursuant to sections 334.700 to 334.725;

[(4)] (3) Set the fee for [examination,] licensure[, and renewal thereof;

[(5)] (4) Keep a record of all of its proceedings regarding the Missouri athletic trainers act and of all athletic trainers licensed in this state;

[(6)] (5) Annually prepare a roster of the names and addresses of all athletic trainers licensed in this state, copies of which shall be made available upon request to any person paying the fee therefor;

[(7)] (6) Set the fee for the roster at an amount sufficient to cover the actual cost of publishing and distributing the roster;

[(8)] (7) Appoint members of the Missouri athletic trainer advisory committee;

[(9)] (8) Adopt an official seal.

3. The board may:

(1) Issue subpoenas to compel witnesses to testify or produce evidence in proceedings to deny, suspend, or revoke a license or licensure;

(2) Promulgate rules pursuant to chapter 536, RSMo, in order to carry out the provisions of sections 334.700 to 334.725;

(3) Establish guidelines for athletic trainers in sections 334.700 to 334.725.

4. No rule or portion of a rule promulgated under the authority of sections 334.700 to 334.725 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

334.708. QUALIFICATIONS OF ATHLETIC TRAINERS SEEKING LICENSURE. — 1. Any person seeking licensure pursuant to sections 334.700 to 334.725 **after August 28, 2006**, must be a resident or in the process of establishing residency in this state and [must meet at least one set of the following qualifications:

(1)] has met [all of] **and passed** the National Athletic Trainers Association [certification qualifications;

(2) Holds a degree in physical therapy with at least a minor in physical education or health which included a basic athletic training course and has spent at least two academic years, military duty included, working under the direct supervision of a certified athletic trainer;

(3) Can show proof acceptable to the board of experience and educational quality equal to that in subdivision (1), and can pass the examination for licensure pursuant to sections 334.700 to 334.725] **Board of Certification or its successor agency examination.**

2. The board shall grant, without examination, licensure to any qualified nonresident athletic trainer holding a license or licensure in another state if such other state recognizes licenses or licensure of the state of Missouri in the same manner.

334.715. REFUSAL — SUSPENSION — REVOCATION OF LICENSE, GROUNDS — REINSTATEMENT, PROCEDURE. — 1. The board may refuse to license any applicant or may suspend, revoke, or refuse to renew the license of any licensee for any one or any combination of the causes provided in section 334.100, or if the applicant or licensee:

(1) Violated or conspired to violate any provision of sections 334.700 to 334.725 or any provision of any rule promulgated pursuant to sections 334.700 to 334.725; or

(2) Has been found guilty of unethical conduct as defined in the ethical standards of the National Athletic Trainers Association or the National Athletic Trainers Association Board of Certification **or its successor agency** as adopted and published by the committee and the board and filed with the secretary of state.

2. Upon receipt of a written application made in the form and manner prescribed by the board, the board may reinstate any license which has expired, been suspended or been revoked or may issue any license which has been denied; provided, that no application for reinstatement or issuance of license or licensure shall be considered until at least six months have elapsed from the date of denial, expiration, suspension, or revocation when the license to be reinstated or issued was denied issuance or renewal or was suspended or revoked for one of the causes listed in subsection 1 of this section.

334.721. ATHLETIC TRAINERS NOT TO BE CONSTRUED AS PRACTICING MEDICINE — PERSONS EXEMPT FROM REGISTRATION PROVISION. — 1. Nothing in sections 334.700 to 334.725 shall be construed to authorize the practice of medicine by any person not licensed by the state board of registration for the healing arts.

2. The provisions of sections 334.700 to 334.725 shall not apply to the following persons:

(1) Physicians and surgeons licensed by the state board of registration for the healing arts;

(2) Dentists licensed by the Missouri dental board who confine their practice strictly to dentistry;

(3) Optometrists licensed by the state board of optometry who confine their practice strictly to optometry, as defined in section 336.010, RSMo;

(4) Nurses licensed by the state board of nursing who confine their practice strictly to nursing;

(5) Chiropractors licensed by the state board of chiropractic examiners who confine themselves strictly to the practice of chiropractic, as defined in section 331.010, RSMo;

(6) Podiatrists licensed by the state board of chiropody or podiatry who confine their practice strictly to that of a podiatrist, as defined in section 330.010, RSMo;

(7) Professional physical therapists licensed by the state board of registration for the healing arts who confine their practice strictly to professional physical therapy, as defined in section 334.500;

(8) Coaches and physical education instructors in the performance of their duties;

(9) [Apprentice] Athletic [trainers] **training students** who confine themselves strictly to their duties as defined in sections 334.700 to 334.725;

(10) Athletic trainers from other nations, states, or territories performing their duties for their respective teams or organizations if they restrict their duties only to their teams or organizations and only during the course of their teams' or organizations' stay in this state.

Approved June 29, 2006

HB 1762 [SCS HCS HB 1762]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Exempts a person who presents proof of permanent disability from Veterans Administration from the four-year certification requirement for renewal of disabled license plates

AN ACT to repeal section 301.142, RSMo, and to enact in lieu thereof one new section relating to disabled license plates, with a penalty provision.

SECTION

A. Enacting clause.

301.142. Physically disabled, temporarily disabled, defined — plates for disabled and placard for windshield, issued when — physician statements, requirements — death of disabled person, effect — lost or stolen placard, replacement of, fee — recertification and review by director, when — penalties for certain fraudulent acts.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 301.142, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 301.142, to read as follows:

301.142. PHYSICALLY DISABLED, TEMPORARILY DISABLED, DEFINED — PLATES FOR DISABLED AND PLACARD FOR WINDSHIELD, ISSUED WHEN — PHYSICIAN STATEMENTS, REQUIREMENTS — DEATH OF DISABLED PERSON, EFFECT — LOST OR STOLEN PLACARD, REPLACEMENT OF, FEE — RECERTIFICATION AND REVIEW BY DIRECTOR, WHEN — PENALTIES FOR CERTAIN FRAUDULENT ACTS. — 1. As used in sections 301.141 to 301.143, the following terms mean:

(1) "Department", the department of revenue;

(2) "Director", the director of the department of revenue;

(3) "Other authorized health care practitioner" includes [only] **advanced practice registered nurses licensed pursuant to chapter 335, RSMo**, chiropractors licensed pursuant to chapter 331, RSMo, podiatrists licensed pursuant to chapter 330, RSMo, and optometrists licensed pursuant to chapter 336, RSMo;

(4) "Physically disabled", a natural person who is blind, as defined in section 8.700, RSMo, or a natural person with medical disabilities which prohibits, limits, or severely impairs one's ability to ambulate or walk, as determined by a licensed physician or other authorized health care practitioner as follows:

(a) The person cannot ambulate or walk fifty or less feet without stopping to rest due to a severe and disabling arthritic, neurological, orthopedic condition, or other severe and disabling condition; or

(b) The person cannot ambulate or walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device; or

(c) Is restricted by a respiratory or other disease to such an extent that the person's forced respiratory expiratory volume for one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than sixty mm/hg on room air at rest; or

(d) Uses portable oxygen; or

(e) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American Heart Association; or

(f) A person's age, in and of itself, shall not be a factor in determining whether such person is physically disabled or is otherwise entitled to disabled license plates and/or disabled windshield hanging placards within the meaning of sections 301.141 to 301.143;

(5) "Physician", a person licensed to practice medicine pursuant to chapter 334, RSMo;

(6) "Physician's statement", a statement personally signed by a duly authorized person which certifies that a person is disabled as defined in this section;

(7) "Temporarily disabled person", a disabled person as defined in this section whose disability or incapacity is expected to last no more than one hundred eighty days.

2. Other authorized health care practitioners may furnish to a disabled or temporarily disabled person a physician's statement for only those physical health care conditions for which such health care practitioner is legally authorized to diagnose and treat.

3. A physician's statement shall:

(1) Be on a form prescribed by the director of revenue;

(2) Set forth the specific diagnosis and medical condition which renders the person physically disabled or temporarily disabled as defined in this section;

(3) Include the physician's or other authorized health care practitioner's license number; and

(4) Be personally signed by the issuing physician or other authorized health care practitioner.

4. If it is the professional opinion of the physician or other authorized health care practitioner issuing the statement that the physical disability of the applicant, user, or member of the applicant's household is permanent, it shall be noted on the statement. Otherwise, the physician or other authorized health care practitioner shall note on the statement the anticipated length of the disability which period may not exceed one hundred eighty days. If the physician

or health care practitioner fails to record an expiration date on the physician's statement, the director shall issue a temporary windshield placard for a period of thirty days.

5. A physician or other authorized health care practitioner who issues or signs a physician's statement so that disabled plates or a disabled windshield placard may be obtained shall maintain in such disabled person's medical chart documentation that such a certificate has been issued, the date the statement was signed, the diagnosis or condition which existed that qualified the person as disabled pursuant to this section and shall contain sufficient documentation so as to objectively confirm that such condition exists.

6. The medical or other records of the physician or other authorized health care practitioner who issued a physician's statement shall be open to inspection and review by such practitioner's licensing board, in order to verify compliance with this section. Information contained within such records shall be confidential unless required for prosecution, disciplinary purposes, or otherwise required to be disclosed by law.

7. Owners of motor vehicles who are residents of the state of Missouri, and who are physically disabled, owners of motor vehicles operated at least fifty percent of the time by a physically disabled person, or owners of motor vehicles used to primarily transport physically disabled members of the owner's household may obtain disabled person license plates. Such owners, upon application, accompanied by the documents and fees provided for in this section, a current physician's statement which has been issued within ninety days proceeding the date the application is made and proof of compliance with the state motor vehicle laws relating to registration and licensing of motor vehicles, shall be issued motor vehicle license plates for vehicles, other than commercial vehicles with a gross weight in excess of twenty-four thousand pounds, upon which shall be inscribed the international wheelchair accessibility symbol and the word "DISABLED" in addition to a combination of letters and numbers. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130.

8. The director shall further issue, upon request, to such applicant one, and for good cause shown, as the director may define by rule and regulations, not more than two, removable disabled windshield hanging placards for use when the disabled person is occupying a vehicle or when a vehicle not bearing the permanent handicap plate is being used to pick up, deliver, or collect the physically disabled person issued the disabled motor vehicle license plate or disabled windshield hanging placard.

9. No additional fee shall be paid to the director for the issuance of the special license plates provided in this section, except for special personalized license plates and other license plates described in this subsection. Priority for any specific set of special license plates shall be given to the applicant who received the number in the immediately preceding license period subject to the applicant's compliance with the provisions of this section and any applicable rules or regulations issued by the director. If determined feasible by the advisory committee established in section 301.129, any special license plate issued pursuant to this section may be adapted to also include the international wheelchair accessibility symbol and the word "DISABLED" as prescribed in this section and such plate may be issued to any applicant who meets the requirements of this section and the other appropriate provision of this chapter, subject to the requirements and fees of the appropriate provision of this chapter.

10. Any physically disabled person, or the parent or guardian of any such person, or any not-for-profit group, organization, or other entity which transports more than one physically disabled person, may apply to the director of revenue for a removable windshield placard. The placard may be used in motor vehicles which do not bear the permanent handicap symbol on the license plate. Such placards must be hung from the front, middle rearview mirror of a parked motor vehicle and may not be hung from the mirror during operation. These placards may only be used during the period of time when the vehicle is being used by a disabled person, or when the vehicle is being used to pick up, deliver, or collect a disabled person. When there is no rearview mirror, the placard shall be displayed on the dashboard on the driver's side.

11. The removable windshield placard shall conform to the specifications, in respect to size, color, and content, as set forth in federal regulations published by the Department of Transportation. The fee for each removable windshield placard shall be four dollars and the removable windshield placard shall be renewed every two years. The director may stagger the expiration dates to equalize workload. Only one removable placard may be issued to an applicant who has been issued disabled person license plates. Upon request, one additional windshield placard may be issued to an applicant who has not been issued disabled person license plates, at the appropriate fee.

12. A temporary windshield placard shall be issued to any physically disabled person, or the parent or guardian of any such person who otherwise qualifies except that the physical disability, in the opinion of the physician, is not expected to exceed a period of one hundred eighty days. The temporary windshield placard shall conform to the specifications, in respect to size, color, and content, as set forth in federal regulations published by the Department of Transportation. The fee for the temporary windshield placard shall be two dollars. Upon request, and for good cause shown, one additional temporary windshield placard may be issued to an applicant. Temporary windshield placards shall be issued upon presentation of the physician's statement provided by this section and shall be displayed in the same manner as removable windshield placards. A person or entity shall be qualified to possess and display a temporary removable windshield placard for six months and the placard may be renewed once for an additional six months if a physician's statement pursuant to this section is supplied to the director of revenue at the time of renewal.

13. Application for license plates or windshield placards issued pursuant to this section shall be made to the director of revenue and shall be accompanied by a statement signed by a licensed physician or other authorized health care practitioner which certifies that the applicant, user, or member of the applicant's household is a physically disabled person as defined by this section.

14. The placard shall be renewable only by the person or entity to which the placard was originally issued. Any placard issued pursuant to this section shall only be used when the physically disabled occupant for whom the disabled plate or placard was issued is in the motor vehicle at the time of parking or when a physically disabled person is being delivered or collected. A disabled license plate and/or a removable windshield hanging placard are not transferable and may not be used by any other person whether disabled or not.

15. At the time the disabled plates or windshield hanging placards are issued, the director shall issue a registration certificate which shall include the applicant's name, address, and other identifying information as prescribed by the director, or if issued to an agency, such agency's name and address. This certificate shall further contain the disabled license plate number or, for windshield hanging placards, the registration or identifying number stamped on the placard. The validated registration receipt given to the applicant shall serve as the registration certificate.

16. The director shall, upon issuing any disabled registration certificate for license plates and/or windshield hanging placards, provide information which explains that such plates or windshield hanging placards are nontransferable, and the restrictions explaining who and when a person or vehicle which bears or has the disabled plates or windshield hanging placards may be used or be parked in a disabled reserved parking space, and the penalties prescribed for violations of the provisions of this act.

17. Every new applicant for a disabled license plate or placard shall be required to present a new physician's statement dated no more than ninety days prior to such application. Renewal applicants will be required to submit a physician's statement dated no more than ninety days prior to such application upon their first renewal occurring on or after August 1, 2005. Upon completing subsequent renewal applications, a physician's statement dated no more than ninety days prior to such application shall be required every fourth year. Such physician's statement shall state the expiration date for the temporary windshield placard. If the physician fails to

record an expiration date on the physician's statement, the director shall issue the temporary windshield placard for a period of thirty days.

18. The director of revenue upon receiving a physician's statement pursuant to this subsection shall check with the state board of registration for the healing arts created in section 334.120, RSMo, **or the Missouri state board of nursing established in section 335.021, RSMo, with respect to physician's statements signed by advanced practice registered nurses**, or the Missouri state board of chiropractic examiners established in section 331.090, RSMo, with respect to physician's statements signed by licensed chiropractors, or with the board of optometry established in section 336.130, RSMo, with respect to physician's statements signed by licensed optometrists, or the state board of podiatric medicine created in section 330.100, RSMo, with respect to physician's statements signed by physicians of the foot or podiatrists to determine whether the physician is duly licensed and registered pursuant to law. **If such applicant obtaining a disabled license plate or placard presents proof of disability in the form of a statement from the United States Veterans' Administration verifying that the person is permanently disabled, the applicant shall be exempt from the four-year certification requirement of this subsection for renewal of the plate or placard. Initial applications shall be accompanied by the physician's statement required by this section.**

19. The boards shall cooperate with the director and shall supply information requested pursuant to this subsection. The director shall, in cooperation with the boards which shall assist the director, establish a list of all Missouri physicians and other authorized health care practitioners and of any other information necessary to administer this section.

20. Where the owner's application is based on the fact that the vehicle is used at least fifty percent of the time by a physically disabled person, the applicant shall submit a statement stating this fact, in addition to the physician's statement. The statement shall be signed by both the owner of the vehicle and the physically disabled person. The applicant shall be required to submit this statement with each application for license plates. No person shall willingly or knowingly submit a false statement and any such false statement shall be considered perjury and may be punishable pursuant to section 301.420.

21. The director of revenue shall retain all physicians' statements and all other documents received in connection with a person's application for disabled license plates and/or disabled windshield placards.

22. The director of revenue shall enter into reciprocity agreements with other states or the federal government for the purpose of recognizing disabled person license plates or windshield placards issued to physically disabled persons.

23. When a person to whom disabled person license plates or a removable or temporary windshield placard or both have been issued dies, the personal representative of the decedent or such other person who may come into or otherwise take possession of the disabled license plates or disabled windshield placard shall return the same to the director of revenue under penalty of law. Failure to return such plates or placards shall constitute a class B misdemeanor.

24. The director of revenue may order any person issued disabled person license plates or windshield placards to submit to an examination by a chiropractor, osteopath, or physician, or to such other investigation as will determine whether such person qualifies for the special plates or placards.

25. If such person refuses to submit or is found to no longer qualify for special plates or placards provided for in this section, the director of revenue shall collect the special plates or placards, and shall furnish license plates to replace the ones collected as provided by this chapter.

26. In the event a removable or temporary windshield placard is lost, stolen, or mutilated, the lawful holder thereof shall, within five days, file with the director of revenue an application and an affidavit stating such fact, in order to purchase a new placard. The fee for the replacement windshield placard shall be four dollars.

27. Fraudulent application, renewal, issuance, procurement or use of disabled person license plates or windshield placards shall be a class A misdemeanor. It is a class B

misdeemeanor for a physician, chiropractor, podiatrist or optometrist to certify that an individual or family member is qualified for a license plate or windshield placard based on a disability, the diagnosis of which is outside their scope of practice or if there is no basis for the diagnosis.

Approved June 21, 2006

HB 1787 [SCS HCS HB 1787]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Establishes the Guard at Home Program to assist the spouse of an active-duty National Guard or reservist with immediate needs and employment to prevent the family from falling into poverty

AN ACT to amend chapter 620, RSMo, by adding thereto one new section relating to the guard at home program, with an emergency clause.

SECTION

- A. Enacting clause.
- 620.515. Guard at home program established to assist members of the national guard and their families — report to general assembly.
- B. Emergency clause, effective date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 620, RSMo, is amended by adding thereto one new section, to be known as section 620.515, to read as follows:

620.515. GUARD AT HOME PROGRAM ESTABLISHED TO ASSIST MEMBERS OF THE NATIONAL GUARD AND THEIR FAMILIES — REPORT TO GENERAL ASSEMBLY. — 1. This section shall be known and may be cited as the "Guard at Home" program whose purpose is to:

- (1) Assist the spouse of an active duty national guard or reserve component service member reservist to address immediate needs and employment in an attempt to keep the family from falling into poverty while the primary income earner is on active duty; and
- (2) Assist returning national guard troops with finding work in situations where an individual needs to rebuild business clientele or where an individual's job has been eliminated while such individual was deployed.

2. Subject to appropriation, the department of economic development shall enter into a contract with qualified providers through local workforce investment boards to provide the guard at home program. The department shall develop the criteria of the contract based on the following criteria:

- (1) Eligible participants in the program shall be those families where:
 - (a) The primary income earner was called to active duty in defense of the United States for a period of more than four months;
 - (b) The family's primary income is no longer available;
 - (c) The family is experiencing significant hardship due to financial burdens; and
 - (d) The family has no outside resources available to assist with such hardships;
- (2) Services that may be provided to the family will be aimed at ameliorating the immediate crisis and providing a path for economic stability while the primary income is

not available due to the active military commitment. Services may include, but not be limited to the following:

- (a) Financial assistance to families facing financial crisis from overdue bills due to reduced income after the deployment of a spouse;
 - (b) Help paying daycare costs to pursue training and or employment;
 - (c) Help covering the costs of transportation to training and or employment;
 - (d) Vocational evaluation and vocational counseling to help the individual choose a visible employment goal;
 - (e) Vocational training to acquire or upgrade skills needed to be marketable in the workforce;
 - (f) Paid internships and subsidized employment to train on the job; and
 - (g) Job placement assistance for those who don't require skills training;
- (3) The department shall ensure the eligible providers are:
- (a) Community-based not-for-profit agencies which have significant experience in job training, placement, and social services;
 - (b) Providers with extensive experience providing such services to veterans and implementing contracts with veteran organizations such as the department of veteran affairs;
 - (c) Providers which have attained the distinction of being accredited through a national accreditation body for training and or human services;
 - (d) Providers which are able to provide a twenty percent match to the program either through indirect or direct expenditures; and
 - (e) Providers with experience in the regions targeted for the program.

3. The department shall structure the contract such that payment will be based on delivering the services described in this section as well as performance to guarantee the greatest possible effectiveness of the program.

4. Because of the important nature of this program to the health and welfare of Missourians, this section shall become effective on July 1, 2006. The department shall make every reasonable effort to ensure that the guard at home program is serving families by August 1, 2006.

5. The department shall prepare a report on the operations and progress of the program to be delivered to the speaker of the house of representatives and the president pro tem of the senate no later than January 1, 2007.

SECTION B. EMERGENCY CLAUSE, EFFECTIVE DATE. — Because immediate action is necessary to protect the health and welfare of Missouri national guard troops and reservists, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect on July 1, 2006, or upon its passage and approval.

Approved June 13, 2006

HB 1827 [HB 1827]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the authorized categories of business and premium requirements on health insurance policies issued to an association of small and large employers

AN ACT to repeal section 376.421, RSMo, and to enact in lieu thereof one new section relating to group health insurance.

SECTION

A. Enacting clause.

376.421. Group health insurance, authorized categories.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 376.421, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 376.421, to read as follows:

376.421. GROUP HEALTH INSURANCE, AUTHORIZED CATEGORIES. — 1. Except as provided in subsection 2 of this section, no policy of group health insurance shall be delivered in this state unless it conforms to one of the following descriptions:

(1) A policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

(a) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietorships or partnerships, if the business of the employer and of such affiliated corporations, proprietorships or partnerships is under common control. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietorship or partnership. The policy may provide that the term "employees" shall include retired employees, former employees and directors of a corporate employer. A policy issued to insure the employees of a public body may provide that the term "employees" shall include elected or appointed officials;

(b) The premium for the policy shall be paid either from the employer's funds or from funds contributed by the insured employees, or from both. Except as provided in paragraph (c) of this subdivision, a policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, except those who reject such coverage in writing; and

(c) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer in a policy insuring fewer than ten employees and in a policy insuring ten or more employees if:

a. Application is not made within thirty-one days after the date of eligibility for insurance; or

b. The person voluntarily terminated the insurance while continuing to be eligible for insurance under the policy; or

c. After the expiration of an open enrollment period during which the person could have enrolled for the insurance or could have elected another level of benefits under the policy;

(2) A policy issued to a creditor or its parent holding company or to a trustee or trustees or agent designated by two or more creditors, which creditor, holding company, affiliate, trustee, trustees or agent shall be deemed the policyholder, to insure debtors of the creditor or creditors with respect to their indebtedness subject to the following requirements:

(a) The debtors eligible for insurance under the policy shall be all of the debtors of the creditor or creditors, or all of any class or classes thereof. The policy may provide that the term "debtors" shall include:

a. Borrowers of money or purchasers or lessees of goods, services, or property for which payment is arranged through a credit transaction;

b. The debtors of one or more subsidiary corporations; and
c. The debtors of one or more affiliated corporations, proprietorships or partnerships if the business of the policyholder and of such affiliated corporations, proprietorships or partnerships is under common control;

(b) The premium for the policy shall be paid either from the creditor's funds or from charges collected from the insured debtors, or from both. Except as provided in paragraph (c) of this subdivision, a policy on which no part of the premium is to be derived from funds contributed by insured debtors specifically for their insurance must insure all eligible debtors;

(c) An insurer may exclude any debtors as to whom evidence of individual insurability is not satisfactory to the insurer in a policy insuring fewer than ten debtors and in a policy insuring ten or more debtors if:

a. Application is not made within thirty-one days after the date of eligibility for insurance; or

b. The person voluntarily terminated the insurance while continuing to be eligible for insurance under the policy; or

c. After the expiration of an open enrollment period during which the person could have enrolled for the insurance or could have elected another level of benefits under the policy;

(d) The total amount of insurance payable with respect to an indebtedness shall not exceed the greater of the scheduled or actual amount of unpaid indebtedness to the creditor. The insurer may exclude any payments which are delinquent on the date the debtor becomes disabled as defined in the policy;

(e) The insurance may be payable to the creditor or to any successor to the right, title, and interest of the creditor. Such payment or payments shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of each such payment and any excess of insurance shall be payable to the insured or the estate of the insured;

(f) Notwithstanding the preceding provisions of this subdivision, insurance on agricultural credit transaction commitments may be written up to the amount of the loan commitment, and insurance on educational credit transaction commitments may be written up to the amount of the loan commitment less the amount of any repayments made on the loan;

(3) A policy issued to a labor union or similar employee organization, which shall be deemed to be the policyholder, to insure members of such union or organization for the benefit of persons other than the union or organization or any of its officials, representatives, or agents, subject to the following requirements:

(a) The members eligible for insurance under the policy shall be all of the members of the union or organization, or all of any class or classes thereof;

(b) The premium for the policy shall be paid either from funds of the union or organization or from funds contributed by the insured members specifically for their insurance, or from both. Except as provided in paragraph (c) of this subdivision, a policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, except those who reject such coverage in writing;

(c) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer in a policy insuring fewer than ten members and in a policy insuring ten or more members if:

a. Application is not made within thirty-one days after the date of eligibility for insurance; or

b. The person voluntarily terminated the insurance while continuing to be eligible for insurance under the policy; or

c. After the expiration of an open enrollment period during which the person could have enrolled for the insurance or could have elected another level of benefits under the policy;

(4) A policy issued to a trust, or to the trustee of a fund, established or adopted by two or more employers, or by one or more labor unions or similar employee organizations, or by one or more employers and one or more labor unions or similar employee organizations, which trust

or trustee shall be deemed the policyholder, to insure employees of the employers or members of the unions or organizations for the benefit of persons other than the employers or the unions or organizations, subject to the following requirements:

(a) The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions or organizations, or all of any class or classes thereof. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietorships or partnerships if the business of the employer and of such affiliated corporations, proprietorships or partnerships is under common control. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietorship or partnership. The policy may provide that the term "employees" shall include retired employees, former employees and directors of a corporate employer. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship;

(b) The premium for the policy shall be paid from funds contributed by the employer or employers of the insured persons or by the union or unions or similar employee organizations, or by both, or from funds contributed by the insured persons or from both the insured persons and the employer or union or similar employee organization. Except as provided in paragraph (c) of this subdivision, a policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance, must insure all eligible persons except those who reject such coverage in writing;

(c) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer;

(5) A policy issued to an association or to a trust or to the trustees of a fund established, created and maintained for the benefit of members of one or more associations. The association or associations shall have at the outset a minimum of [one hundred persons] **fifty members**; shall have been organized and maintained in good faith for purposes other than that of obtaining insurance; shall have been in active existence for at least two years; shall have a constitution and bylaws which provide that the association or associations shall hold regular meetings not less than annually to further the purposes of the members; shall, except for credit unions, collect dues or solicit contributions from members; and shall provide the members with voting privileges and representation on the governing board and committees. The policy shall be subject to the following requirements:

(a) The policy may insure members of such association or associations, employees thereof, or employees of members, or one or more of the preceding, or all of any class or classes thereof for the benefit of persons other than the employee's employer;

(b) The premium for the policy shall be paid from funds contributed by the association or associations or by employer members, or by both, or from funds contributed by the covered persons or from both the covered persons and the association, associations, or employer members;

(c) Except as provided in paragraph (d) of this subdivision, a policy on which no part of the premium is to be derived from funds contributed by the covered persons specifically for their insurance must insure all eligible persons, except those who reject such coverage in writing;

(d) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer;

(e) If the health benefit plan, as defined in section 376.1350, is delivered, issued for delivery, continued or renewed, is providing coverage to any resident of this state, and is providing coverage to both small employers as defined in subsection 2 of section 379.930, RSMo, and large employers, the insurer providing the coverage to the association or trust or trustees of a fund established, created, and maintained for the benefit of members of one or more associations may be exempt from subdivision (1) of subsection 1 of section 379.936, RSMo, as it relates to the association plans established under this section. The

director shall find that an exemption would be in the public interest and approved and that additional classes of business may be approved under subsection 4 of section 379.934, RSMo, if the director determines that the health benefit plan:

- a. Is underwritten and rated as a single employer;
- b. Has a uniform health benefit plan design option or options for all participating association members or employers;
- c. Has guarantee issue to all association members and all eligible employees, as defined in subsection 2 of section 379.930, RSMo, of any participating association member company; and
- d. Complies with all other federal and state insurance requirements, including but not limited to the small employer health insurance and availability act under sections 379.930 to 379.952, RSMo;

(6) A policy issued to a credit union or to a trustee or trustees or agent designated by two or more credit unions, which credit union, trustee, trustees or agent shall be deemed the policyholder, to insure members of such credit union or credit unions for the benefit of persons other than the credit union or credit unions, trustee or trustees, or agent or any of their officials, subject to the following requirements:

(a) The members eligible for insurance shall be all of the members of the credit union or credit unions, or all of any class or classes thereof;

(b) The premium for the policy shall be paid by the policyholder from the credit union's funds and, except as provided in paragraph (c) of this subdivision, must insure all eligible members;

(c) An insurer may exclude or limit the coverage on any member as to whom evidence of individual insurability is not satisfactory to the insurer;

(7) A policy issued to cover persons in a group where that group is specifically described by a law of this state as one which may be covered for group life insurance. The provisions of such law relating to eligibility and evidence of insurability shall apply.

2. Group health insurance offered to a resident of this state under a group health insurance policy issued to a group other than one described in subsection 1 of this section shall be subject to the following requirements:

(1) No such group health insurance policy shall be delivered in this state unless the director finds that:

(a) The issuance of such group policy is not contrary to the best interest of the public;

(b) The issuance of the group policy would result in economies of acquisition or administration; and

(c) The benefits are reasonable in relation to the premiums charged;

(2) No such group health insurance coverage may be offered in this state by an insurer under a policy issued in another state unless this state or another state having requirements substantially similar to those contained in subdivision (1) of this subsection has made a determination that such requirements have been met;

(3) The premium for the policy shall be paid either from the policyholder's funds, or from funds contributed by the covered persons, or from both;

(4) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

Approved July 12, 2006

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding medical malpractice insurance and the enforcement powers of the Department of Insurance and creates the Health Care Stabilization Fund Feasibility Board

AN ACT to repeal sections 374.046, 383.010, 383.035, and 383.105, RSMo, and to enact in lieu thereof eighteen new sections relating to malpractice insurance.

SECTION

- A. Enacting clause.
- 374.046. Relief issued by director for violations of state laws — considerations — notice — effective date of order — contents of order, procedures — penalty — costs — powers of director — service — order filed — noncompliance — modification of order — additional penalties — definitions.
- 374.047. Willful violation of state law, order — notice.
- 374.048. Violations of state laws, action in circuit court — relief — bond — venue — judgment — fund created.
- 374.049. Classification of violations — orders, penalties — enhancement of penalties — reduction of penalties — deposit and use of penalties — effective date.
- 383.010. Authority to form business entity to provide malpractice insurance — nonresidents may be members, when.
- 383.016. Articles of association and bylaws, additional contents.
- 383.035. Association subject to certain laws — grace period for certain associations, limitations — certification filed with annual statement — rules and regulations, director may promulgate — impaired association, director's powers, review of — rating plans, filing of.
- 383.105. Report of medical malpractice claims by certain insurers, contents, insurer defined.
- 383.106. Reporting standards — risk reporting categories — information compiled — report of rates.
- 383.107. Publication of market rate.
- 383.108. Publication of comparison of base rates.
- 383.124. Administrative orders for violations of state laws or rules — civil action for violations.
- 383.196. Definition of insurer
- 383.197. Rates filed with director — form — open to public, copies.
- 383.198. Sale of health care provider policy prohibited, when — determining factors — insurer may charge additional premium or grant discount, when — supporting data — rulemaking authority.
- 383.199. Rate increases over fifteen percent prohibited without notice, exception.
- 383.450. Insurer defined — prohibitions on insurers — failure to provide notice, continuation of coverage.
- 383.515. Health care stabilization fund feasibility board created, duties, report — members — appointment, meetings, reports — powers — staff — compensation — expiration date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 374.046, 383.010, 383.035, and 383.105, RSMo, are repealed and eighteen new sections enacted in lieu thereof, to be known as sections 374.046, 374.047, 374.048, 374.049, 383.010, 383.016, 383.035, 383.105, 383.106, 383.107, 383.108, 383.124, 383.196, 383.197, 383.198, 383.199, 383.450, and 383.515, to read as follows:

374.046. RELIEF ISSUED BY DIRECTOR FOR VIOLATIONS OF STATE LAWS — CONSIDERATIONS — NOTICE — EFFECTIVE DATE OF ORDER — CONTENTS OF ORDER, PROCEDURES — PENALTY — COSTS — POWERS OF DIRECTOR — SERVICE — ORDER FILED — NONCOMPLIANCE — MODIFICATION OF ORDER — ADDITIONAL PENALTIES — DEFINITIONS.— 1. [(1)] The director may issue cease and desist orders whenever it appears to him upon competent and substantial evidence that any person is acting in violation of any law of this state or any rule or regulation promulgated by the director relating to the business of insurance. Before any cease and desist order shall be issued, a copy of the proposed order together with an order to show cause why such cease and desist order should not be issued shall be served either personally or by certified mail on any person named therein.

(2) (a) Upon issuing any order to show cause the director shall notify the person named therein that the person is entitled to a public hearing before the director if a request for a hearing

is made in writing to the director within fifteen days from the day of the service of the order to show cause why the cease and desist order should not be issued.

(b) The cease and desist order shall be issued fifteen days after the service of the order to show cause if no request for a public hearing is made as above provided.

(c) Upon receipt of a request for a hearing the director shall set a time and place for the hearing which shall not be less than ten days or more than fifteen days from the receipt of the request or as otherwise agreed upon by the parties. Notice of the time and place shall be given by the director not less than five days before the hearing.

(d) At the hearing the person may be represented by counsel and shall be entitled to be advised of the nature and source of any adverse evidence procured by the director and shall be given the opportunity to submit any relevant written or oral evidence in his behalf to show cause why the cease and desist order should not be issued.

(e) At the hearing the director shall have such powers as are conferred upon him in section 374.190.

(f) At the conclusion of the hearing, or within ten days thereafter, the director shall issue the cease and desist order as proposed or as subsequently modified or notify the person that no order shall be issued.

(g) The circuit court of Cole County shall have jurisdiction to review any cease and desist order of the director under the provisions of sections 536.100 to 536.150, RSMo; and, if any person against whom an order is issued fails to request judicial review, or if, after judicial review, the director's cease and desist order is upheld, the order shall become final.

2.] If the director determines based upon substantial and competent evidence that a person has engaged, is engaging in or has taken a substantial step toward engaging in an act, practice, omission, or course of business constituting a violation of the laws of this state relating to insurance in this chapter, chapter 354, RSMo, and chapters 375 to 385, RSMo, or a rule adopted or order issued pursuant thereto or that a person has materially aided or is materially aiding an act, practice, omission, or course of business constituting a violation of the laws of this state relating to insurance in this chapter, chapter 354, RSMo, and chapters 375 to 385, RSMo, or a rule adopted or order issued pursuant thereto, the director may order the following relief:

(1) An order directing the person to cease and desist from engaging in the act, practice, omission, or course of business;

(2) A curative order or order directing the person to take other action necessary or appropriate to comply with the insurance laws of this state;

(3) Order a civil penalty or forfeiture as provided in section 374.049; and

(4) Award reasonable costs of the investigation.

2. In determining any relief sought, the director shall consider, among other factors, whether:

(1) The violations are likely to continue or reoccur;

(2) Actual financial loss was sustained by consumers and restitution has been made;

(3) The act, practice, omission, or course of business was detected as part of a self-audit or internal compliance program and immediately reported to the director; and

(4) The act, practice, omission, or course of business had previously been detected, but inadequate policies and procedures were implemented to prevent reoccurrence.

3. Unless the director determines that a summary order is appropriate under subsection 4 of this section, the director shall provide notice of the intent to initiate administrative enforcement by serving a statement of the reasons for the action upon any person subject to the proceedings. A statement of reasons, together with an order to show cause why a cease and desist order and other relief should not be issued, shall be served either personally or by certified mail on any person named therein. The director shall schedule a time and place at least ten days thereafter, for hearing, and after notice of and

opportunity for hearing to each person subject to the order, the director may issue a final order under subsection 6 of this section.

4. If the director determines that sections 375.014, 375.144, or 375.310, RSMo, are being violated and consumers are being aggrieved by the violations, the order issued under subdivision (1) of subsection 1 of this section may be summary and be effective on the date of issuance. Upon issuance of the order, the director shall promptly serve each person subject to the order with a copy of the order and a notice that the order has been entered.

5. A summary order issued under subsection 4 of this section must include a statement of the reasons for the order, notice within five days after receipt of a request in a record from the person that the matter will be scheduled for a hearing, and a statement whether the department is seeking a civil penalty or costs of the investigation. If a person subject to the order does not request a hearing and none is ordered by the director within thirty days after the date of service of the order, the order becomes final as to that person by operation of law. If a hearing is requested or ordered, the director, after notice of and opportunity for hearing to each person subject to the order, may modify or vacate the order or extend it until final determination.

6. If a hearing is requested or ordered pursuant to subsection 3 or subsection 5 of this section, a hearing before the director or a hearing officer designated by the director must be provided. A final order may not be issued unless the director makes findings of fact and conclusions of law in a record in accordance with the provisions of chapter 536, RSMo, and procedural rules promulgated by the director. The final order may make final, vacate, or modify the order issued under subsection 5 of this section.

7. In a final order under subsection 6 of this section, the director may impose a civil penalty or forfeiture as provided in section 374.049. No civil penalty or forfeiture may be imposed against a person unless the person has engaged in the act, practice, omission, or course of business constituting the violation.

8. In a final order under subsection 6 of this section, the director may charge the actual cost of an investigation or proceeding for a violation of the insurance laws of this state or a rule adopted or order issued pursuant thereto. These funds shall be paid to the director to the credit of the insurance dedicated fund.

9. The director is authorized to issue subpoenas, compel attendance of witnesses, administer oaths, hear testimony of witnesses, receive evidence, and require the production of books, papers, records, correspondence, and all other written instruments or documents relevant to the proceeding and authorized in contested cases under the provisions of chapter 536, RSMo, and procedural rules promulgated by the director.

10. Statements of charges, notices, orders, and other processes of the director may be served by anyone duly authorized by the director either in the manner provided by law for service of process in civil actions, or by registering or certifying and mailing a copy thereof to the person affected by such statement, notice, order, or other process at his or its residence or principal office or place of business. The verified return by the person so serving such statement, notice, order, or other process setting forth the manner of such service shall be proof of the same, and the return postcard receipt for such statement, notice, order, or other process, registered and mailed as aforesaid, shall be proof of the service of the same.

11. If a petition for judicial review of a final order is not filed in accordance with section 374.055, the director may file a certified copy of the final order with the clerk of a court of competent jurisdiction. The order so filed has the same effect as a judgment of the court and may be recorded, enforced, or satisfied in the same manner as a judgment of the court.

12. If a person violates or does not comply with an order under this section, the director may under section 374.048 petition a court of competent jurisdiction to enforce

the order. The court may not require the director to post a bond in an action or proceeding under this section. If the court finds, after service and opportunity for hearing, that the person was not in compliance with the order, the court may, in addition to relief authorized in section 374.048, adjudge the person in civil contempt of the order. A violation of or failure to comply with an order under this section is a level three violation under section 374.049. The court may impose a further civil penalty against the person for contempt in an amount not less than five thousand dollars but not greater than one hundred thousand dollars for each violation and may grant any other relief the court determines is just and proper in the circumstances.

13. Until the expiration of the time allowed under section 374.055 for filing a petition for judicial review, if no such petition has been duly filed within such time or if a petition for review has been filed within such time, then until the transcript of the record in the proceeding has been filed in the circuit court of Cole County, the director may at any time, upon such notice and in such manner as he shall deem proper, modify or set aside in whole or in part any order issued by him under this section.

14. The enforcement authority of the director under this section is cumulative to any other statutory authority of the director.

15. The director is authorized to issue administrative consent orders in the public interest as complete or partial settlement of any investigation, examination, or other proceeding, which curative orders may contain any provision necessary or appropriate to assure compliance with the insurance laws of this state, require payment of restitution to be distributed directly or by the director to any aggrieved consumers, civil penalties, or voluntary forfeiture, reimbursement for costs of investigation or examination, or any other relief deemed by the director to be necessary and appropriate. Any remaining matters not addressed in settlement may be submitted to the director through a contested proceeding under this section.

16. (1) Any person willfully violating any provision of any cease and desist order of the director after it becomes final, while the same is in force, upon conviction thereof shall be punished by a fine of not more than one **hundred** thousand dollars [or one year in jail] , **by imprisonment of up to ten years**, or by both such fine and [jail sentence] **imprisonment**.

(2) In addition to any other penalty provided, violation of any cease and desist order shall subject the violator to suspension or revocation of any certificate of authority or license as may be applicable under the laws of this state relating to the business of insurance.

[3. (1) When it appears to the director that there is a violation of the laws of this state or any rule or regulation promulgated by the director relating to the business of insurance, and that the continuance of the acts or actions of any person as herein defined would produce injury to the insuring public or to any other person in this state, or when it appears that a person is doing or threatening to do some act in violation of the laws of this state relating to insurance, the director may file a petition for injunction in the circuit court of Cole County, Missouri, in which he may ask for a temporary injunction or restraining order as well as a permanent injunction to restrain the act or threatened act. In the event the temporary injunction or restraining order or a permanent injunction is issued by the circuit court of Cole County, Missouri, no person against whom the temporary injunction or restraining order or permanent injunction is granted shall do or continue to do any of the acts or actions complained of in the petition for injunction, unless and until the temporary injunction or restraining order or permanent injunction is vacated, dismissed or otherwise terminated.

(2) Any writ of injunction issued under this law may be served and enforced as provided by law in injunctions issued in other cases, but the director of the insurance department shall not be required to give any bond as preliminary to or in the course of any proceedings to which he is a party as director under this section, either for costs or for any injunction, or in case of appeal to either the supreme court or to any appellate court.

4.] 17. The term "person" as used in this [section] **chapter** shall include any individual, partnership, corporation, association or trust, or any other legal entity.

18. The term "order" as used in this chapter shall include a formal administrative direction or command of the director issued under this section or in any contested case subject to the provisions of section 536.063, RSMo, or any lawful administrative proceeding subject to judicial review, but shall not include department bulletins, no-action letters, advisory opinions, or any other statement of general applicability that should be adopted by rule.

374.047. WILLFUL VIOLATION OF STATE LAW, ORDER — NOTICE. — 1. If the director determines, based on substantial and competent evidence, that a corporation or insurer with a certificate of authority under the laws relating to insurance willfully has engaged in an act, practice, omission, or course of business constituting a level three, four, or five violation of the laws of this state relating to insurance in this chapter, chapter 354 and chapters 375 to 385, RSMo, or been convicted of any felony or misdemeanor under any state or federal law, the director may, after hearing, issue an order suspending or revoking the certificate of authority.

2. Prior to issuance of the order under this section, the director shall give at least thirty days' notice with a statement of reasons for the action and afford such corporation or insurer the opportunity for a hearing upon written request. If such corporation or insurer requests a hearing in writing, a final order of suspension or revocation may not be issued unless the director makes findings of fact and conclusions of law in a record in accordance with the contested case provisions of chapter 536, RSMo, and procedural rules promulgated by the director.

3. The enforcement authority of the director under this section is cumulative to any other statutory authority of the director.

374.048. VIOLATIONS OF STATE LAWS, ACTION IN CIRCUIT COURT — RELIEF — BOND — VENUE — JUDGMENT — FUND CREATED. — 1. If the director believes that a person has engaged, is engaging in or has taken a substantial step toward engaging in an act, practice, omission, or course of business constituting a violation of the laws of this state relating to insurance in this chapter, chapter 354 and chapters 375 to 385, RSMo, or a rule adopted or order issued pursuant thereto or that a person has or is engaging in an act, practice, omission, or course of business that materially aids a violation of the laws of this state relating to insurance in this chapter, chapter 354 and chapters 375 to 385, RSMo, or a rule adopted or order issued pursuant thereto, the director may maintain an action in the circuit court of any county of the state or any city not within a county to enjoin the act, practice, omission, or course of business and to enforce compliance with the laws of this state relating to insurance or a rule adopted or order issued by the director.

2. In an action under this section and on a proper showing, the court may:

(1) Issue a permanent or temporary injunction, restraining order, or declaratory judgment;

(2) Order other appropriate or ancillary relief, which may include:

(a) An asset freeze, accounting, writ of attachment, writ of general or specific execution, and appointment of a receiver or conservator, which may be the director, for the defendant or the defendant's assets;

(b) Ordering the director to take charge and control of a defendant's property, including accounts in a depository institution, rents, and profits; to collect debts; and to acquire and dispose of property;

(c) Imposing a civil penalty or forfeiture as provided in section 374.049;

(d) Upon showing financial loss, injury, or harm to identifiable consumers, imposing an order of restitution or disgorgement directed to a person who has engaged in an act,

practice, omission, or course of business in violation of the laws or rules relating to insurance;

- (e) Ordering the payment of prejudgment and post-judgment interest;
- (f) Ordering reasonable costs of investigation and prosecution; and
- (g) Ordering the payment to the insurance dedicated fund an additional amount equal to ten percent of the total restitution or disgorgement ordered, or such other amount as awarded by the court, which shall be appropriated to an insurance consumer education program administered by the director; or

(3) Order such other relief as the court considers necessary or appropriate.

3. The director may not be required to post a bond in an action or proceeding under this section.

4. The case may be brought in the circuit court of Cole County, any county or city not within a county in which a violation has occurred, or any county or city not within a county, which has venue of an action against the person, partnership, or corporation under other provisions of law.

5. The enforcement authority of the director under this section is cumulative to any other authority of the director to impose orders under other provisions of the laws relating to insurance in this state.

6. If the director determines it to be in the public interest, the director is authorized to enter into a consent injunction and judgment in the settlement of any proceeding under the laws of this state relating to insurance in this chapter, chapter 354 and chapters 375 to 385, RSMo.

7. A "Consumer Restitution Fund" shall be created for the purpose of preserving and distributing to aggrieved consumers disgorgement or restitution funds obtained through enforcement proceedings brought by the director. In addition to the equitable powers of the court authorized above, the court may order that such funds be paid into the consumer restitution fund for distribution to aggrieved consumers. It shall be the duty of the director to distribute such funds to those persons injured by the unlawful acts, practices, omissions, or courses of business by the subject of the proceeding. Notwithstanding the provisions of section 33.080, RSMo, any funds remaining in the director's consumer restitution fund at the end of any biennium shall not be transferred to the general revenue fund, but if the director is unable with reasonable efforts to ascertain the aggrieved consumers, then the funds may be transferred to the insurance dedicated fund to be used for consumer education.

374.049. CLASSIFICATION OF VIOLATIONS — ORDERS, PENALTIES — ENHANCEMENT OF PENALTIES — REDUCTION OF PENALTIES — DEPOSIT AND USE OF PENALTIES — EFFECTIVE DATE. — 1. Violations of the laws of this state relating to insurance in this chapter, chapter 354 and chapters 375 to 385, RSMo, or a rule adopted or order issued by the director, are classified for the purpose of civil penalties and forfeitures into the following five classifications:

- (1) Level one violations;
- (2) Level two violations;
- (3) Level three violations;
- (4) Level four violations; and
- (5) Level five violations.

2. An order to impose a civil penalty or forfeiture, when imposed by the director in an administrative proceeding under section 374.046 on a person for any violation of the laws of this state relating to insurance in this chapter, chapter 354 and chapters 375 to 385, RSMo, or a rule adopted or order issued by the director, shall be an order to pay an amount not exceeding the following:

- (1) No civil penalty or forfeiture for a level one violation;
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(2) One thousand dollars per each level two violation, up to an aggregate civil penalty or forfeiture of fifty thousand dollars per annum for multiple violations;

(3) Five thousand dollars per each level three violation, up to an aggregate civil penalty or forfeiture of one hundred thousand dollars per annum for multiple violations;

(4) Ten thousand dollars per each level four violation, up to an aggregate civil penalty or forfeiture of two hundred fifty thousand dollars per annum for multiple violations;

(5) Fifty thousand dollars per each level five violation, up to an aggregate civil penalty or forfeiture of two hundred fifty thousand dollars per annum for multiple violations.

3. An order to impose a civil penalty or forfeiture, when imposed by the court in an enforcement proceeding under section 374.048 on a person for any violation of the laws of this state relating to insurance in this chapter, chapter 354 and chapters 375 to 385, RSMo, or a rule adopted or order issued by the director, shall be an order to pay an amount not exceeding the following:

(1) No civil penalty or forfeiture for a level one violation;

(2) One thousand dollars per each level two violation, up to an aggregate civil penalty or forfeiture of fifty thousand dollars per annum for multiple violations;

(3) Five thousand dollars per each level three violation, up to an aggregate civil penalty or forfeiture of two hundred thousand dollars per annum for multiple violations;

(4) Twenty thousand dollars per each level four violation, up to an aggregate civil penalty or forfeiture of one million dollars per annum for multiple violations;

(5) One million dollars per each level five violation, with no limit to civil penalties or forfeitures for multiple violations;

4. No civil penalty or forfeiture may be imposed against a person, unless the person has engaged in the act, practice, omission or course of business constituting the violation.

5. Any violation of the laws of this state relating to insurance in this chapter, chapter 354 and chapters 375 to 385, RSMo, which is not classified or does not authorize a specific range for a civil penalty or forfeiture for violations, shall be classified as a level one violation. In bringing an action to enforce a rule adopted by the director, unless the conduct that violates the rule also violates the enabling statute, the violation shall be classified as a level one violation and shall not be subject to any provision in this section regarding the enhancement of a civil penalty or forfeiture.

6. The civil penalties or forfeitures set forth in this section establish a maximum range. The court, or the director in administrative enforcement, shall consider all of the circumstances, including the nature of violations to determine whether, and to any extent, a civil penalty or forfeiture is justified.

7. In any enforcement proceeding, the court, or director in administrative enforcement, may enhance the civil penalty or forfeiture with a one classification step increase under this section, if the violation was knowing. The court, or director in administrative enforcement, may enhance the civil penalty or forfeiture with a two level increase if the violation was knowingly committed in conscious disregard of the law.

8. In any enforcement proceeding, the court, or director in administrative enforcement, may, after consideration of the factors specified in subsection 2 of section 374.046, enhance the civil penalty or forfeiture with a one classification step increase under this section, if the violations resulted in actual financial loss to consumers.

9. In any enforcement proceeding, the court, or director in administrative enforcement, shall reduce the civil penalty or forfeiture on that person with up to a two classification step reduction under this section, if prior to receiving notice of the violation from the department, the person detects the violation through a self-audit or internal compliance program reasonably designed to detect and prevent insurance law violations and immediately reports the violation to the director.

10. If more than one error is caused by a single act or omission in the use of data processing equipment and such errors are not known by the violator at the time the error occurs, then any such errors shall be regarded as a single violation under this section.

11. Any civil penalty or forfeiture recovered by the director shall be paid to the treasurer and then distributed to the public schools as required by Article IX, section 7 of the Missouri Constitution.

12. The penalties and forfeitures authorized by this section govern all actions and proceedings that are instituted on the basis of conduct occurring after August 28, 2006.

383.010. AUTHORITY TO FORM BUSINESS ENTITY TO PROVIDE MALPRACTICE INSURANCE — NONRESIDENTS MAY BE MEMBERS, WHEN. — 1. Notwithstanding any direct or implied prohibitions in chapter 375, 377, or 379, RSMo, any three or more persons, residents of this state, being licensed under the provisions of chapter 330, 331, 332, 334, 335, 336, 338 or 339, RSMo, or under rule 8 of the supreme court of Missouri or architects licensed pursuant to chapter 327, RSMo, may, as provided in sections 383.010 to 383.040, form a business entity for the purpose of providing malpractice insurance or indemnification for such persons upon the assessment plan, and upon compliance with section 379.260, RSMo, liability and automobile insurance as defined in subdivisions (1) and (3) of section 379.230, RSMo, may be provided upon the assessment plan to those persons licensed pursuant to chapter 197, RSMo, and for whom medical malpractice insurance is provided under this section, except that automobile insurance shall be provided only for ambulances as defined in section 190.100, RSMo. [Hospitals, public or private, whether incorporated or not, as defined in chapter 197, RSMo, if licensed by the state of Missouri,] **Any entity licensed under chapter 197, RSMo, professional corporations [formed under the provisions of chapter 356, RSMo, for the practice of law and corporations, copartnerships or associations licensed under the provisions of chapter 339, RSMo], and limited liability companies, corporations, limited liability partnerships, partnerships, and other similar entities formed for the practice of law or medicine** may also become members of any such entity. The term "persons" as used in sections 383.010 to 383.040 includes such hospitals, professional corporations and real estate business entities.

2. Anything in this section to the contrary notwithstanding, any persons duly licensed under the provisions of the laws of any other state who, if licensed under any similar provisions of the laws of this state, would be eligible to become members and insureds of an entity created under the authority of this section, may become members and insureds of such an entity, irrespective of whether such persons are residents of this state; provided, however, that any such persons must be employed by, or be a partner, shareholder or member of, a professional corporation, corporation, copartnership or association insured by or to be insured by such an entity.

3. Notwithstanding any provision of law which might be construed to the contrary, sections 379.882 and 379.888, RSMo, defining "commercial casualty insurance", shall not include professional malpractice insurance policies issued by any insurer in this state.

383.016. ARTICLES OF ASSOCIATION AND BYLAWS, ADDITIONAL CONTENTS. — The articles of association and the bylaws of any association created under the provisions of sections 383.010 to 383.040 shall:

(1) **Specify and define the types of assessments, including but not limited to initial, regular, operating, special, any other assessment to cover losses and expenses incurred in the operation of the association, or any other assessment to maintain or restore the association's assets, solvency, or surplus;**

(2) **Specify by type of assessment the assessments that shall apply to members, former members, or both members and former members of the association; and**

(3) With respect to any assessment to cover losses and expenses incurred in the operation of the association and any assessment to maintain or restore the association's assets, solvency, or surplus specify:

- (a) The exact method and criteria by which the amounts of each type of assessment are to be determined;
- (b) The time in which the assessments must be paid;
- (c) That such assessments shall be made without limitation as to frequency;
- (d) The maximum amount of any single assessment; and
- (e) How such assessments apply to members and former members.

383.035. ASSOCIATION SUBJECT TO CERTAIN LAWS — GRACE PERIOD FOR CERTAIN ASSOCIATIONS, LIMITATIONS — CERTIFICATION FILED WITH ANNUAL STATEMENT — RULES AND REGULATIONS, DIRECTOR MAY PROMULGATE — IMPAIRED ASSOCIATION, DIRECTOR'S POWERS, REVIEW OF — RATING PLANS, FILING OF. — 1. Any association licensed pursuant to the provisions of sections 383.010 to 383.040 shall be subject to the provisions of the following provisions of the revised statutes of Missouri:

(1) Sections 374.010, 374.040, 374.046 to **374.049**, 374.110, 374.115, 374.122, 374.170, **374.190**, 374.210, 374.215, 374.216, 374.230, 374.240, 374.250 and 374.280, RSMo, relating to the general authority of the director of the department of insurance;

(2) Sections 375.022, 375.031, 375.033, 375.035, 375.037 and 375.039, RSMo, relating to dealings with licensed agents and brokers;

(3) Sections 375.041 and 379.105, RSMo, relating to annual statements;

(4) Section 375.163, RSMo, relating to the competence of managing officers;

(5) Section 375.246, RSMo, relating to reinsurance requirements, except that no association shall be required to maintain reinsurance, and for insurance issued to members who joined the association on or before January 1, 1993, an association shall be allowed credit, as an asset or as a deduction from liability, for reinsurance which is payable to the ceding association's insured by the assuming insurer on the basis of the liability of the ceding association under contracts reinsured without diminution because of the insolvency of the ceding association;

(6) Section 375.390, RSMo, relating to the use of funds by officers for private gain;

(7) Section 375.445, RSMo, relating to insurers operating fraudulently;

(8) Section 379.080, RSMo, relating to permissible investments, except that limitations in such section shall apply only to assets equal to such positive surplus as is actually maintained by the association;

(9) Section 379.102, RSMo, relating to the maintenance of unearned premium and loss reserves as liabilities, except that any such loss reserves may be discounted in accordance with reasonable actuarial assumptions;

(10) Sections 383.100 to 383.125 relating to reports from medical malpractice insurers;

(11) Sections 383.196 to 383.199 and 383.450 relating to notification, data reporting, and rating requirements.

2. [Any association which was licensed pursuant to the provisions of sections 383.010 to 383.040 on or before January 1, 1992, shall be allowed until December 31, 1995, to comply with the provisions of this section as they relate to investments, reserves and reinsurance.

3.] Any association licensed pursuant to the provisions of sections 383.010 to 383.040 shall file with its annual statement a certification by a fellow or an associate of the Casualty Actuarial Society. Such certification shall conform to the National Association of Insurance Commissioners annual statement instructions unless otherwise provided by the director [of the department of insurance].

[4.] **3.** The director [of the department of insurance] shall have authority in accordance with section 374.045, RSMo, to make all reasonable rules and regulations to accomplish the purpose of sections 383.010 to 383.040, including the extent to which insurance provided by an

association may be extended to provide payment to a covered person resulting from a specific illness possessed by such covered person; except that no rule or regulation may place limitations or restrictions on the amount of premium an association may write or on the amount of insurance or limit of liability an association may provide.

[5.] 4. Other than as provided in this section, no other insurance law of the state of Missouri shall apply to an association licensed pursuant to the provisions of this chapter, unless such law shall expressly state it is applicable to such associations.

[6.] 5. If, [after August 28, 1992, and] after its second full calendar year of operation, any association licensed under the provisions of sections 383.010 to 383.040 shall file an annual statement which shows a surplus as regards policyholders of less than zero dollars, or if the director [of the department of insurance] has other conclusive and credible evidence more recent than the last annual statement indicating the surplus as regards policyholders of an association is less than zero dollars, the director [of the department of insurance] may order such association to submit, within ninety days following such order, a voluntary plan under which the association will restore its surplus as regards policyholders to at least zero dollars. The director [of the department of insurance] may monitor the performance of the association's plan and may order modifications thereto, including assessments or rate or premium increases, if the association fails to meet any targets proposed in such plan for three consecutive quarters.

[7.] 6. If the director [of the department of insurance] issues an order in accordance with subsection [6] 5 of this section, the association may, in accordance with chapter 536, RSMo, file a petition for review of such order. Any association subject to an order issued in accordance with subsection [6] 5 of this section shall be allowed a period of three years, or such longer period as the director may allow, to accomplish its plan to restore its surplus as regards policyholders to at least zero dollars. If at the end of the authorized period of time the association has failed to restore its surplus to at least zero dollars, or if the director [of the department of insurance] has ordered modifications of the voluntary plan and the association's surplus has failed to increase within three consecutive quarters after such modification, the director [of the department of insurance] may allow an additional time for the implementation of the voluntary plan or may exercise [his] **the director's** powers to take charge of the association as [he] **the director** would a mutual casualty company pursuant to sections 375.1150 to 375.1246, RSMo. Sections 375.1150 to 375.1246, RSMo, shall apply to associations licensed pursuant to sections 383.010 to 383.040 only after the conditions set forth in this section are met. When the surplus as regards policyholders of an association subject to subsection [6] 5 of this section has been restored to at least zero dollars, the authority and jurisdiction of the director [of the department of insurance] under subsections **5 and 6** [and 7] of this section shall terminate, but this subsection may again thereafter apply to such association if the conditions set forth in subsection [6] 5 of this section for its application are again satisfied.

[8.] 7. Any association licensed pursuant to the provisions of sections 383.010 to 383.040 shall place on file with the director [of the department of insurance], except as to excess liability risks which by general custom are not written according to manual rates or rating plans, a copy of every manual of classifications, rules, underwriting rules and rates, every rating plan and every modification of the foregoing which it uses. Filing with the director [of the department of insurance] within ten days after such manuals, rating plans or modifications thereof are effective shall be sufficient compliance with this subsection. Any rates, rating plans, rules, classifications or systems in effect or in use by an association on August 28, 1992, may continue to be used by the association. Upon written application of a member of an association, stating his **or her** reasons therefor, filed with the association, a rate in excess of that provided by a filing otherwise applicable may be used by the association for that member.

383.105. REPORT OF MEDICAL MALPRACTICE CLAIMS BY CERTAIN INSURERS, CONTENTS, INSURER DEFINED. — 1. Every insurer providing medical malpractice insurance to a Missouri health care provider and every health care provider who maintains professional

liability coverage through a plan of self-insurance shall submit to the director [of the department of insurance] a report of all claims, both open claims filed during the reporting period and closed claims filed during the reporting period, for medical malpractice made against any of its Missouri insureds during the preceding three-month period.

2. The report shall be in writing and contain the following information:

- (1) Name and address of the insured and the person working for the insured who rendered the service which gave rise to the claim, if the two are different;
- (2) Specialty coverage of the insured;
- (3) Insured's policy number;
- (4) Nature and substance of the claim;
- (5) Date and place in which the claim arose;
- (6) Name, address and age of the claimant or plaintiff;
- (7) Within six months after final disposition of the claim, the amounts paid, if any, and the date and manner of disposition (judgment, settlement or otherwise);
- (8) Expenses incurred; and
- (9) Such additional information as the director may require.

3. As used in [this section] **sections 383.100 to 383.125**, "insurer" includes every insurance company authorized to transact insurance business in this state, every unauthorized insurance company transacting business pursuant to chapter 384, RSMo, every risk retention group, every insurance company issuing insurance to or through a purchasing group, **every entity operating under this chapter**, and any other person providing insurance coverage in this state[. With respect to any insurer transacting business pursuant to chapter 384, RSMo, filing the report required by this section shall be the obligation of the surplus lines broker or licensee originating or accepting the insurance] , **including self-insured health care providers**.

383.106. REPORTING STANDARDS — RISK REPORTING CATEGORIES — INFORMATION COMPILED — REPORT OF RATES. — 1. To effectively monitor the insurance marketplace, rates, financial solvency, and affordability and availability of medical malpractice coverage, the director shall establish by rule or order reporting standards for insurers by which the insurers, or an advisory organization designated by the director, shall annually report such Missouri medical malpractice insurance premium, loss, exposure, and other information as the director may require.

2. The director shall, prior to May 30, 2007, establish risk reporting categories for medical malpractice insurance, as defined in section 383.150, and shall establish regulations for the reporting of all base rates and premiums charged in those categories as determined by the director. The director shall consider the history of prior court judgments for claims under this chapter in each county of the state in establishing the risk reporting categories.

3. The director shall collect the information required in this section and compile it in a manner appropriate for assisting Missouri medical malpractice insurers in developing their future base rates, schedule rating, or individual risk rating factors and other aspects of their rating plans. In compiling the information and making it available to Missouri insurers and the public, the director shall remove any individualized information that identifies a particular insurer as the source of the information. The director may combine such information with similar information obtained through insurer examinations so as to cover periods of more than one year.

4. All insurers with regards to medical malpractice insurance as defined in section 383.150, shall provide to the director, beginning on June 1, 2008, and not less than annually thereafter, an accurate report as to the actual rates, including assessments levied against members, charged by such company for such insurance, for each of the risk reporting categories established under this section.

383.107. PUBLICATION OF MARKET RATE. — Not later than December 31, 2009, and at least annually thereafter, the director shall, utilizing the information provided pursuant to section 383.106, establish and publish a market rate reflecting the median of the actual rates charged for each of the risk reporting categories for the preceding year by all insurers with at least a three percent market share of the medical malpractice insurance market as of December thirty-first of the prior year, which are certified to have rates which are not inadequate by an actuary selected and approved by the director.

383.108. PUBLICATION OF COMPARISON OF BASE RATES. — The director shall, utilizing the information provided under section 383.106, publish comparisons of the base rates charged by each insurer actively writing medical malpractice insurance.

383.124. ADMINISTRATIVE ORDERS FOR VIOLATIONS OF STATE LAWS OR RULES — CIVIL ACTION FOR VIOLATIONS. — 1. If the director determines that a person has engaged, is engaging, or is about to engage in a violation of sections 383.100 to 383.125 or a rule adopted or order issued pursuant thereto, or that a person has materially aided, is materially aiding, or is about to materially aid an act, practice, omission, or course of business constituting a violation of sections 383.100 to 383.125 or a rule adopted or order issued pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of any provisions under these sections is a level two violation under section 374.049, RSMo. The director of insurance may also suspend or revoke the license or certificate of authority of any person for any such willful violation as authorized under section 374.047, RSMo.

2. If the director believes that a person has engaged, is engaging, or is about to engage in a violation of sections 383.100 to 383.125 or a rule adopted or order issued pursuant thereto, or that a person has materially aided, is materially aiding, or is about to materially aid an act, practice, omission, or course of business constituting a violation of sections 383.100 to 383.125 or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of any provision under these sections is a level two violation under section 374.049, RSMo.

383.196. DEFINITION OF INSURER — As used in sections 383.196 to 383.199, "insurer" includes any insurance company, mutual insurance company, medical malpractice association, any entity created under this chapter, or other entity providing any insurance to any health care provider, as defined in section 538.205, RSMo, practicing in the state of Missouri, against claims for malpractice or professional negligence; provided, however, that the term "insurer" or "insurers" shall not mean any surplus lines insurer operating under chapter 384, RSMo, or any entity to the extent it is self-insuring its exposure to medical malpractice liability.

383.197. RATES FIELD WITH DIRECTOR — FORM — OPEN TO PUBLIC, COPIES. — 1. Every insurer shall file with the director all rates and supplementary rate information which is to be used in this state. Such rates and supplementary rate information shall be filed before use.

2. Rates filed pursuant to this section shall be filed in such form and manner as prescribed by the director. Whenever a filing is not accompanied by such information as the director has required under this section, the director shall so inform the insurer within thirty days.

3. All rates and supplementary rate information shall, as soon as filed, be open to public inspection at any reasonable time. Copies may be obtained by any person on request and upon payment of a reasonable charge.

383.198. SALE OF HEALTH CARE PROVIDER POLICY PROHIBITED, WHEN — DETERMINING FACTORS — INSURER MAY CHARGE ADDITIONAL PREMIUM OR GRANT DISCOUNT, WHEN — SUPPORTING DATA — RULEMAKING AUTHORITY. — 1. Notwithstanding the provisions of sections 383.037 and 383.160, no insurer shall issue or sell in the state of Missouri a policy insuring a health care provider, as defined in section 538.205, RSMo, for damages for personal injury or death arising out of the rendering of or failure to render health care services if the director finds, based upon competent and compelling evidence, that the base rates of such insurer are excessive, inadequate, or unfairly discriminatory. A rate may be used by an insurer immediately after it has been filed with the director, until or unless the director has determined under this section that a rate is excessive, inadequate, or unfairly discriminatory.

2. In making a determination under subsection 1 of this section, the director of the department of insurance may use the following factors:

(1) Rates shall not be excessive or inadequate, nor shall they be unfairly discriminatory;

(2) No rate shall be held to be excessive unless such rate is unreasonably high for the insurance proved with respect to the classification to which such rate is applicable;

(3) No rate shall be held to be inadequate unless such rate is unreasonably low for the insurance provided with respect to the classification to which such rate is applicable;

(4) To the extent Missouri loss experience is available, rates and projected losses shall be based on Missouri loss experience and not the insurance company's or the insurance industry's loss experiences in states other than Missouri unless the failure to do so jeopardizes the financial stability of the insurer; provided however, that loss experiences relating to the specific proposed insured occurring outside the state of Missouri may be considered in allowing a surcharge to such insured's premium rate;

(5) Investment income or investment losses of the insurance company for the ten-year period prior to the request for rate approval may be considered in reviewing rates. Investment income or investment losses for a period of less than ten years shall not be considered in reviewing rates. Industry-wide investment income or investment losses for the ten-year period prior to the request for rate approval may be considered for any insurance company that has not been authorized to issue insurance for more than ten years;

(6) The locale in which the health care practice is occurring;

(7) Inflation;

(8) Reasonable administrative costs of the insurer;

(9) Reasonable costs of defense of claims against Missouri health care providers;

(10) A reasonable rate of return on investment for the owners or shareholders of the insurer when compared to other similar investments at the time of the rate request; except that, such factor shall not be used to offset losses in other states or in activities of the insurer other than the sale of policies of insurance to Missouri health care providers; and

(11) Any other reasonable factors may be considered in the disapproval of the rate request.

3. The director's determination under subsection 1 of this section of whether a base rate is excessive, inadequate, or unfairly discriminatory may be based on any subcategory or subspecialty of the health care industry that the director determines to be reasonable.

4. If actuarially supported and included in a filed rate, rating plan, rule, manual, or rating system, an insurer may charge an additional premium or grant a discount rate to any health care provider based on criteria as it relates to a specified insured health care provider or other specific health care providers within the specific insured's employ or business entity. Such criteria may include:

(1) Loss experiences;

- (2) Training and experience;
- (3) Number of employees of the insured entity;
- (4) Availability of equipment, capital, or hospital privileges;
- (5) Loss prevention measures taken by the insured;
- (6) The number and extent of claims not resulting in losses;
- (7) The specialty or subspecialty of the health care provider;
- (8) Access to equipment and hospital privileges; and
- (9) Any other reasonable criteria identified by the insurer and filed with the department of insurance.

5. Supporting actuarial data shall be filed in support of a rate, rating plan, or rating system filing, when requested by the director to determine whether rates should be disapproved as excessive, inadequate, or unfairly discriminatory, whether or not the insurer has begun using the rate.

6. The director of the department of insurance shall promulgate rules for the administration and enforcement of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

383.199. RATE INCREASES OVER FIFTEEN PERCENT PROHIBITED WITHOUT NOTICE, EXCEPTION. — Notwithstanding any other provision of law, no insurer shall, with regards to medical malpractice insurance, as defined in section 383.150, implement any rate increase of more than fifteen percent without first providing clear and conspicuous written notice by United States mail to the insured at least sixty days prior to implementation of the rate increase, unless the increase is due to the request of the insured or due to a material change in the nature of the insured's health care practice or individuals risk characteristics.

383.450. INSURER DEFINED — PROHIBITIONS ON INSURERS — FAILURE TO PROVIDE NOTICE, CONTINUATION OF COVERAGE. — 1. As used in this section, "insurer" includes every insurance company authorized to transact business in this state, every unauthorized insurance company transacting business pursuant to chapter 384, RSMo, every risk retention group, every insurance company issuing policies or providing benefits to or through a purchasing group, and any other person providing medical malpractice insurance coverage in this state.

2. Notwithstanding any other provision of law, no insurer shall, with regards to medical malpractice insurance, as defined in section 383.150:

(1) Fail or refuse to renew the insurance without first providing written notice by certified United States mail to the insured at least sixty days prior to the effective date of such actions, unless such failure or refusal to renew is based upon a failure to pay sums due or a termination or suspension of the health care provider's license to practice medicine in the state of Missouri, termination of the insurer's reinsurance program, or a material change in the nature of the insured's health care practice; or

(2) Cease the issuance of such policies of insurance in the state of Missouri without first providing written notice by certified United States mail to the insured and to the Missouri department of insurance at least one hundred eighty days prior to the effective date of such actions.

3. Any insurer that fails to provide the notice required under subdivision (1) of subsection 2 of this section shall, at the option of the insured, continue the coverage for the remainder of the notice period plus an additional thirty days at the premium rate of the existing policy.

383.515. HEALTH CARE STABILIZATION FUND FEASIBILITY BOARD CREATED, DUTIES, REPORT — MEMBERS — APPOINTMENT, MEETINGS, REPORTS — POWERS — STAFF — COMPENSATION — EXPIRATION DATE. — 1. There is hereby created within the department of insurance the "Health Care Stabilization Fund Feasibility Board". The primary duty of the board is to determine whether a health care stabilization fund should be established in Missouri to provide excess medical malpractice insurance coverage for health care providers. As part of its duties, the board shall develop a comprehensive study detailing whether a health care stabilization fund is feasible within Missouri, or specified geographic regions thereof, or whether a health care stabilization fund would be feasible for specific medical specialties. The board shall analyze medical malpractice insurance data collected by the department of insurance under sections 383.105 to 383.106 and any other data the board deems necessary to its mission. In addition to analyzing data collected from the Missouri medical malpractice insurance market, the board may study the experience of other states that have established health care stabilization funds or patient compensation funds. If a health care stabilization fund is determined to be feasible within Missouri, the report shall also recommend to the general assembly how the fund should be structured, designed, and funded. The report may contain any other recommendations relevant to the establishment of a health care stabilization fund, including but not limited to, specific recommendations for any statutory or regulatory changes necessary for the establishment of a health care stabilization fund.

2. The board shall consist of ten members. Other than the director, the house members and the senate members, the remainder of the board's members shall be appointed by the director of the department of insurance as provided for in this subsection. The board shall be composed of:

- (1) The director of the department of insurance, or his or her designee;
- (2) Two members of the Missouri senate appointed by the president pro tem of the senate with no more than one from any political party;
- (3) Two members of the Missouri house of representatives appointed by the speaker of the house with no more than one member from any political party;
- (4) One member who is licensed to practice medicine as a medical doctor who is on a list of nominees submitted to the director by an organization representing Missouri's medical society;
- (5) One member who practices medicine as a doctor of osteopathy and who is on a list of nominees submitted to the director by an organization representing Missouri doctors of osteopathy;
- (6) One member who is a licensed nurse in Missouri and who is on a list submitted to the director by an organization representing Missouri nurses;
- (7) One member who is a representative of Missouri hospitals and who is on a list of nominees submitted to the director by an organization representing Missouri hospitals; and
- (8) One member who is a physician and who is on a list submitted to the director by an organization representing family physicians in the state of Missouri.

3. The director shall appoint the members of the board, other than the general assembly members, no later than January 1, 2007. Once appointed, the board shall meet at least quarterly, and shall submit its final report and recommendations regarding the feasibility of a health care stabilization fund to the governor and the general assembly no

later than December 31, 2010. The board shall also submit annual interim reports to the general assembly regarding the status of its progress.

4. The board shall have the authority to convene conferences and hold hearings. All conferences and hearings shall be held in accordance with chapter 610, RSMo.

5. The director of the department of insurance shall provide and coordinate staff and equipment services to the board to facilitate the board's duties.

6. Board members shall receive no additional compensation but shall be eligible for reimbursement for expenses directly related to the performance of their duties.

7. The provisions of this section shall expire December 31, 2010.

Approved July 10, 2006

HB 1857 [HB 1857]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Specifies that a prosecution is commenced for a misdemeanor or infraction when the information is filed and for a felony when the complaint is filed

AN ACT to repeal section 556.036, RSMo, and to enact in lieu thereof one new section relating to commencement of prosecution.

SECTION

A. Enacting clause.

556.036. Time limitations.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 556.036, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 556.036, to read as follows:

556.036. TIME LIMITATIONS. — 1. A prosecution for murder, forcible rape, attempted forcible rape, forcible sodomy, attempted forcible sodomy, or any class A felony may be commenced at any time.

2. Except as otherwise provided in this section, prosecutions for other offenses must be commenced within the following periods of limitation:

- (1) For any felony, three years;
- (2) For any misdemeanor, one year;
- (3) For any infraction, six months.

3. If the period prescribed in subsection 2 of this section has expired, a prosecution may nevertheless be commenced for:

- (1) Any offense a material element of which is either fraud or a breach of fiduciary obligation within one year after discovery of the offense by an aggrieved party or by a person who has a legal duty to represent an aggrieved party and who is himself or herself not a party to the offense, but in no case shall this provision extend the period of limitation by more than three years. As used in this subdivision, the term "person who has a legal duty to represent an aggrieved party" shall mean the attorney general or the prosecuting or circuit attorney having jurisdiction pursuant to section 407.553, RSMo, for purposes of offenses committed pursuant to sections 407.511 to 407.556, RSMo; and
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(2) Any offense based upon misconduct in office by a public officer or employee at any time when the defendant is in public office or employment or within two years thereafter, but in no case shall this provision extend the period of limitation by more than three years; and

(3) Any offense based upon an intentional and willful fraudulent claim of child support arrearage to a public servant in the performance of his or her duties within one year after discovery of the offense, but in no case shall this provision extend the period of limitation by more than three years.

4. An offense is committed either when every element occurs, or, if a legislative purpose to prohibit a continuing course of conduct plainly appears, at the time when the course of conduct or the defendant's complicity therein is terminated. Time starts to run on the day after the offense is committed.

5. A prosecution is commenced [either when an indictment is found or an information filed] **for a misdemeanor or infraction when the information is filed and for a felony when the complaint or indictment is filed.**

6. The period of limitation does not run:

(1) During any time when the accused is absent from the state, but in no case shall this provision extend the period of limitation otherwise applicable by more than three years; or

(2) During any time when the accused is concealing himself from justice either within or without this state; or

(3) During any time when a prosecution against the accused for the offense is pending in this state; or

(4) During any time when the accused is found to lack mental fitness to proceed pursuant to section 552.020, RSMo.

Approved June 9, 2006

HB 1858 [HB 1858]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Authorizes prosecuting and circuit attorneys to dismiss a complaint, information, or indictment without the consent of the court

AN ACT to amend chapter 56, RSMo, by adding thereto one new section relating to prosecuting and circuit attorneys' power to dismiss charges.

SECTION

A. Enacting clause.

56.087. Dismissal of complaints, information, indictments, or counts by prosecuting or circuit attorneys without consent of the court — procedure.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 56, RSMo, is amended by adding thereto one new section, to be known as section 56.087, to read as follows:

56.087. DISMISSAL OF COMPLAINTS, INFORMATION, INDICTMENTS, OR COUNTS BY PROSECUTING OR CIRCUIT ATTORNEYS WITHOUT CONSENT OF THE COURT — PROCEDURE.

— **1. The prosecuting or circuit attorney has the power, in his or her discretion, to dismiss a complaint, information, or indictment, or any count or counts thereof, and in order to**

exercise that power it is not necessary for the prosecutor or circuit attorney to obtain the consent of the court. The dismissal may be made orally by the prosecuting or circuit attorney in open court, or by a written statement of the dismissal signed by the prosecuting or circuit attorney and filed with the clerk of court.

2. A dismissal filed by the prosecuting or circuit attorney prior to the time double jeopardy has attached is without prejudice. A dismissal filed by the prosecuting or circuit attorney after double jeopardy has attached is with prejudice, unless the criminal defendant has consented to having the case dismissed without prejudice.

3. A dismissal without prejudice means that the prosecutor or circuit attorney has complete discretion to refile the case, as long as it is refiled within the time specified by the applicable statute of limitations. A dismissal with prejudice means that the prosecutor or circuit attorney cannot refile the case.

4. For the purposes of this section, double jeopardy attaches in a jury trial when the jury has been impaneled and sworn. It attaches in a court-tried case when the court begins to hear evidence.

Approved June 9, 2006

HB 1900 [CCS SS HCS HB 1900]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding lobbyist reporting requirements and campaign contribution disclosures for public officials

AN ACT to repeal sections 105.470, 105.473, 105.485, 105.957, 105.959, 105.963, 130.011, 130.016, 130.032, 130.046, 130.050, and 130.054, RSMo, and to enact in lieu thereof sixteen new sections relating to ethics, with an effective date.

SECTION

- A. Enacting clause.
- 105.470. Definitions.
- 105.473. Duties of lobbyist — report required, contents — exception — penalties — supersession of local ordinances or charters.
- 105.485. Financial interest statements — form — contents — political subdivisions, compliance.
- 105.957. Receipt of complaints — form — investigation — dismissal of frivolous complaints, damages, public report.
- 105.959. Review of reports and statements, notice — audits and investigations — formal investigations — report — referral of report.
- 105.963. Assessments of committees, campaign disclosure reports — notice — penalty — assessments of financial interest statements — notice — penalties — effective date.
- 115.342. Disqualification for delinquent taxes — affidavit, form — complaints, investigation, notice, payment of taxes.
- 115.350. Conviction or plea under state laws, disqualification for elective public office.
- 130.011. Definitions.
- 130.016. Certain candidates exempt from filing requirements — procedure for exemption — restrictions on subsequent contributions and expenditures — rejection of exemption — candidate committees for certain general assembly leadership offices prohibited.
- 130.032. Monetary contributions from political party committees prohibited — contributions not to be accepted during legislative session, exception.
- 130.042. Posting of expenditures supporting and opposing candidates.
- 130.046. Times for filing of disclosure — periods covered by reports — certain disclosure reports not required — supplemental reports, when — certain disclosure reports filed electronically — rulemaking authority.
- 130.050. Out-of-state committees, reporting, contents — late contribution or loan, defined.

130.054. Complaint, filing procedure, when — ethics commission to investigate, procedure — limitation on accepting complaints.

1. Study and report on political telephone solicitations.
- B. Effective date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 105.470, 105.473, 105.485, 105.957, 105.959, 105.963, 130.011, 130.016, 130.032, 130.046, 130.050, and 130.054, RSMo, are repealed and sixteen new sections enacted in lieu thereof, to be known as sections 105.470, 105.473, 105.485, 105.957, 105.959, 105.963, 115.342, 115.350, 130.011, 130.016, 130.032, 130.042, 130.046, 130.050, 130.054, and 1, to read as follows:

105.470. DEFINITIONS. — As used in section 105.473, unless the context requires otherwise, the following words and terms mean:

(1) **"Elected local government official lobbyist"**, any natural person employed specifically for the purpose of attempting to influence any action by a local government official elected in a county, city, town, or village with an annual operating budget of over ten million dollars;

(2) **"Executive lobbyist"**, any natural person who acts for the purpose of attempting to influence any action by the executive branch of government or by any elected or appointed official, employee, department, division, agency or board or commission thereof and in connection with such activity, meets the requirements of any one or more of the following:

(a) Is acting in the ordinary course of employment on behalf of or for the benefit of such person's employer; or

(b) Is engaged for pay or for any valuable consideration for the purpose of performing such activity; or

(c) Is designated to act as a lobbyist by any person, business entity, governmental entity, religious organization, nonprofit corporation, association or other entity; or

(d) Makes total expenditures of fifty dollars or more during the twelve-month period beginning January first and ending December thirty-first for the benefit of one or more public officials or one or more employees of the executive branch of state government in connection with such activity.

An "executive lobbyist" shall not include a member of the general assembly, an elected state official, or any other person solely due to such person's participation in any of the following activities:

a. Appearing or inquiring in regard to a complaint, citation, summons, adversary proceeding, or contested case before a state board, commission, department, division or agency of the executive branch of government or any elected or appointed officer or employee thereof;

b. Preparing, filing or inquiring, or responding to any audit, regarding any tax return, any public document, permit or contract, any application for any permit or license or certificate, or any document required or requested to be filed with the state or a political subdivision;

c. Selling of goods or services to be paid for by public funds, provided that such person is attempting to influence only the person authorized to authorize or enter into a contract to purchase the goods or services being offered for sale;

d. Participating in public hearings or public proceedings on rules, grants, or other matters;

e. Responding to any request for information made by any public official or employee of the executive branch of government;

f. Preparing or publication of an editorial, a newsletter, newspaper, magazine, radio or television broadcast, or similar news medium, whether print or electronic;

g. Acting within the scope of employment by the general assembly, or acting within the scope of employment by the executive branch of government when acting with respect to the department, division, board, commission, agency or elected state officer by which such person

is employed, or with respect to any duty or authority imposed by law to perform any action in conjunction with any other public official or state employee; or

h. Testifying as a witness before a state board, commission or agency of the executive branch;

[(2)] (3) "Expenditure", any payment made or charge, expense, cost, debt or bill incurred; any gift, honorarium or item of value bestowed including any food or beverage; any price, charge or fee which is waived, forgiven, reduced or indefinitely delayed; any loan or debt which is canceled, reduced or otherwise forgiven; the transfer of any item with a reasonably discernible cost or fair market value from one person to another or provision of any service or granting of any opportunity for which a charge is customarily made, without charge or for a reduced charge; except that the term "expenditure" shall not include the following:

(a) Any item, service or thing of value transferred to any person within the third degree of consanguinity of the transferor which is unrelated to any activity of the transferor as a lobbyist;

(b) Informational material such as books, reports, pamphlets, calendars or periodicals informing a public official regarding such person's official duties, or souvenirs or mementos valued at less than ten dollars;

(c) Contributions to the public official's campaign committee or candidate committee which are reported pursuant to the provisions of chapter 130, RSMo;

(d) Any loan made or other credit accommodations granted or other payments made by any person or entity which extends credit or makes loan accommodations or such payments in the regular ordinary scope and course of business, provided that such are extended, made or granted in the ordinary course of such person's or entity's business to persons who are not public officials;

(e) Any item, service or thing of de minimis value offered to the general public, whether or not the recipient is a public official or a staff member, employee, spouse or dependent child of a public official, and only if the grant of the item, service or thing of de minimis value is not motivated in any way by the recipient's status as a public official or staff member, employee, spouse or dependent child of a public official;

(f) The transfer of any item, provision of any service or granting of any opportunity with a reasonably discernible cost or fair market value when such item, service or opportunity is necessary for a public official or employee to perform his or her duty in his or her official capacity, including but not limited to entrance fees to any sporting event, museum, or other venue when the official or employee is participating in a ceremony, public presentation or official meeting therein;

(g) Any payment, gift, compensation, fee, expenditure or anything of value which is bestowed upon or given to any public official or a staff member, employee, spouse or dependent child of a public official when it is compensation for employment or given as an employment benefit and when such employment is in addition to their employment as a public official;

[(3)] (4) "Judicial lobbyist", any natural person who acts for the purpose of attempting to influence any purchasing decision by the judicial branch of government or by any elected or appointed official or any employee thereof and in connection with such activity, meets the requirements of any one or more of the following:

(a) Is acting in the ordinary course of employment which primary purpose is to influence the judiciary in its purchasing decisions on a regular basis on behalf of or for the benefit of such person's employer, except that this shall not apply to any person who engages in lobbying on an occasional basis only and not as a regular pattern of conduct; or

(b) Is engaged for pay or for any valuable consideration for the purpose of performing such activity; or

(c) Is designated to act as a lobbyist by any person, business entity, governmental entity, religious organization, nonprofit corporation or association; or

(d) Makes total expenditures of fifty dollars or more during the twelve-month period beginning January first and ending December thirty-first for the benefit of one or more public

officials or one or more employees of the judicial branch of state government in connection with attempting to influence such purchasing decisions by the judiciary.

A "judicial lobbyist" shall not include a member of the general assembly, an elected state official, or any other person solely due to such person's participation in any of the following activities:

- a. Appearing or inquiring in regard to a complaint, citation, summons, adversary proceeding, or contested case before a state court;
- b. Participating in public hearings or public proceedings on rules, grants, or other matters;
- c. Responding to any request for information made by any judge or employee of the judicial branch of government;
- d. Preparing, distributing or publication of an editorial, a newsletter, newspaper, magazine, radio or television broadcast, or similar news medium, whether print or electronic; or
- e. Acting within the scope of employment by the general assembly, or acting within the scope of employment by the executive branch of government when acting with respect to the department, division, board, commission, agency or elected state officer by which such person is employed, or with respect to any duty or authority imposed by law to perform any action in conjunction with any other public official or state employee;

[(4)] (5) "Legislative lobbyist", any natural person who acts for the purpose of attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, resolution, amendment, nomination, appointment, report or any other action or any other matter pending or proposed in a legislative committee in either house of the general assembly, or in any matter which may be the subject of action by the general assembly and in connection with such activity, meets the requirements of any one or more of the following:

- (a) Is acting in the ordinary course of employment, which primary purpose is to influence legislation on a regular basis, on behalf of or for the benefit of such person's employer, except that this shall not apply to any person who engages in lobbying on an occasional basis only and not as a regular pattern of conduct; or
- (b) Is engaged for pay or for any valuable consideration for the purpose of performing such activity; or
- (c) Is designated to act as a lobbyist by any person, business entity, governmental entity, religious organization, nonprofit corporation, association or other entity; or
- (d) Makes total expenditures of fifty dollars or more during the twelve-month period beginning January first and ending December thirty-first for the benefit of one or more public officials or one or more employees of the legislative branch of state government in connection with such activity.

A "legislative lobbyist" shall include an attorney at law engaged in activities on behalf of any person unless excluded by any of the following exceptions. A "legislative lobbyist" shall not include any member of the general assembly, an elected state official, or any other person solely due to such person's participation in any of the following activities:

- a. Responding to any request for information made by any public official or employee of the legislative branch of government;
- b. Preparing or publication of an editorial, a newsletter, newspaper, magazine, radio or television broadcast, or similar news medium, whether print or electronic;
- c. Acting within the scope of employment of the legislative branch of government when acting with respect to the general assembly or any member thereof;
- d. Testifying as a witness before the general assembly or any committee thereof;

[(5)] (6) "Lobbyist", any natural person defined as an executive lobbyist, judicial lobbyist, **elected local government official lobbyist**, or a legislative lobbyist;

[(6)] (7) "Lobbyist principal", any person, business entity, governmental entity, religious organization, nonprofit corporation or association who employs, contracts for pay or otherwise compensates a lobbyist;

[(7)] (8) "Public official", any member or member-elect of the general assembly, judge or judicial officer, or any other person holding an elective office of state government or any agency

head, department director or division director of state government or any member of any state board or commission and any designated decision-making public servant designated by persons described in this subdivision.

105.473. DUTIES OF LOBBYIST — REPORT REQUIRED, CONTENTS — EXCEPTION — PENALTIES — SUPERSESSION OF LOCAL ORDINANCES OR CHARTERS. — 1. Each lobbyist shall, not later than **January fifth of each year** or five days after beginning any activities as a lobbyist, file standardized registration forms, verified by a written declaration that it is made under the penalties of perjury, along with a filing fee of ten dollars, with the commission. The forms shall include the lobbyist's name and business address, the name and address of all persons such lobbyist employs for lobbying purposes, the name and address of each lobbyist principal by whom such lobbyist is employed or in whose interest such lobbyist appears or works. The commission shall maintain files on all lobbyists' filings, which shall be open to the public. Each lobbyist shall file an updating statement under oath within one week of any addition, deletion, or change in the lobbyist's employment or representation. The filing fee shall be deposited to the general revenue fund of the state. The lobbyist principal or a lobbyist employing another person for lobbying purposes may notify the commission that a judicial, executive or legislative lobbyist is no longer authorized to lobby for the principal or the lobbyist and should be removed from the commission's files.

2. Each person shall, before giving testimony before any committee of the general assembly, give to the secretary of such committee such person's name and address and the identity of any lobbyist or organization, if any, on whose behalf such person appears. A person who is not a lobbyist as defined in section 105.470 shall not be required to give such person's address if the committee determines that the giving of such address would endanger the person's physical health.

3. (1) During any period of time in which a lobbyist continues to act as an executive lobbyist, judicial lobbyist [or a], legislative lobbyist, **or elected local government official lobbyist**, the lobbyist shall file with the commission on standardized forms prescribed by the commission monthly reports which shall be due at the close of business on the tenth day of the following month;

(2) Each report filed pursuant to this subsection shall include a statement, verified by a written declaration that it is made under the penalties of perjury, setting forth the following:

(a) The total of all expenditures by the lobbyist or his or her lobbyist principals made on behalf of all public officials, their staffs and employees, and their spouses and dependent children, which expenditures shall be separated into at least the following categories by the executive branch, judicial branch and legislative branch of government: printing and publication expenses; media and other advertising expenses; travel; **the time, venue, and nature of any** entertainment; honoraria; meals, food and beverages; and gifts;

(b) **The total of all expenditures by the lobbyist or his or her lobbyist principals made on behalf of all elected local government officials, their staffs and employees, and their spouses and children. Such expenditures shall be separated into at least the following categories: printing and publication expenses; media and other advertising expenses; travel; the time, venue, and nature of any entertainment; honoraria; meals; food and beverages; and gifts;**

(c) An itemized listing of the name of the recipient and the nature and amount of each expenditure by the lobbyist or his or her lobbyist principal, including a service or anything of value, for all expenditures made during any reporting period, paid or provided to or for a public official **or elected local government official**, such official's staff, employees, spouse or dependent children;

[(c)] (d) The total of all expenditures made by a lobbyist or lobbyist principal for occasions and the identity of the group invited, the date and description of the occasion and the amount of the expenditure for each occasion when any of the following are invited in writing:

- a. All members of the senate;
- b. All members of the house of representatives;
- c. All members of a joint committee of the general assembly or a standing committee of either the house of representatives or senate; or

d. All members of a caucus of the [general assembly if the caucus consists of at least ten members, a list of the members of the caucus has been previously filed with the ethics committee of the house or the senate, and such list has been approved by either of such ethics committees] **majority party of the house of representatives, minority party of the house of representatives, majority party of the senate, or minority party of the senate;**

[(d)] (e) Any expenditure made on behalf of a public official, **an elected local government official** or [the public] **such** official's staff, employees, spouse or dependent children, if such expenditure is solicited by such [public] official, the [public] official's staff, employees, or spouse or dependent children, from the lobbyist or his or her lobbyist principals and the name of such person or persons, except any expenditures made to any not-for-profit corporation, charitable, fraternal or civic organization or other association formed to provide for good in the order of benevolence;

[(e)] (f) A statement detailing any direct business relationship or association or partnership the lobbyist has with any public official **or elected local government official**. The reports required by this subdivision shall cover the time periods since the filing of the last report or since the lobbyist's employment or representation began, whichever is most recent.

4. No expenditure reported pursuant to this section shall include any amount expended by a lobbyist or lobbyist principal on himself or herself. All expenditures disclosed pursuant to this section shall be valued on the report at the actual amount of the payment made, or the charge, expense, cost, or obligation, debt or bill incurred by the lobbyist or the person the lobbyist represents. Whenever a lobbyist principal employs more than one lobbyist, expenditures of the lobbyist principal shall not be reported by each lobbyist, but shall be reported by one of such lobbyists. **No expenditure shall be made on behalf of a state senator or state representative, or such public official's staff, employees, spouse, or dependent children for travel or lodging outside the state of Missouri unless such travel or lodging was approved prior to the date of the expenditure by the administration and accounts committee of the house or the administration committee of the senate.**

5. Any lobbyist principal shall provide in a timely fashion whatever information is reasonably requested by the lobbyist principal's lobbyist for use in filing the reports required by this section.

6. All information required to be filed pursuant to the provisions of this section with the commission shall be kept available by the executive director of the commission at all times open to the public for inspection and copying for a reasonable fee for a period of five years from the date when such information was filed.

7. No person shall knowingly employ any person who is required to register as a registered lobbyist but is not registered pursuant to this section. Any person who knowingly violates this subsection shall be subject to a civil penalty in an amount of not more than ten thousand dollars for each violation. Such civil penalties shall be collected by action filed by the commission.

8. No lobbyist shall knowingly omit, conceal, or falsify in any manner information required pursuant to this section.

9. The prosecuting attorney of Cole County shall be reimbursed only out of funds specifically appropriated by the general assembly for investigations and prosecutions for violations of this section.

10. Any public official or other person whose name appears in any lobbyist report filed pursuant to this section who contests the accuracy of the portion of the report applicable to such person may petition the commission for an audit of such report and shall state in writing in such petition the specific disagreement with the contents of such report. The commission shall

investigate such allegations in the manner described in section 105.959. If the commission determines that the contents of such report are incorrect, incomplete or erroneous, it shall enter an order requiring filing of an amended or corrected report.

11. The commission shall provide a report listing the total spent by a lobbyist for the month and year to any member or member-elect of the general assembly, judge or judicial officer, or any other person holding an elective office of state government **or any elected local government official** on or before the twentieth day of each month. For the purpose of providing accurate information to the public, the commission shall not publish information in either written or electronic form for ten working days after providing the report pursuant to this subsection. The commission shall not release any portion of the lobbyist report if the accuracy of the report has been questioned pursuant to subsection 10 of this section unless it is conspicuously marked "Under Review".

12. Each lobbyist or lobbyist principal by whom the lobbyist was employed, or in whose behalf the lobbyist acted, shall provide a general description of the proposed legislation or action by the executive branch or judicial branch which the lobbyist or lobbyist principal supported or opposed. This information shall be supplied to the commission on March fifteenth and May thirtieth of each year.

13. The provisions of this section shall supersede any contradicting ordinances or charter provisions.

105.485. FINANCIAL INTEREST STATEMENTS — FORM — CONTENTS — POLITICAL SUBDIVISIONS, COMPLIANCE. — 1. Each financial interest statement required by sections 105.483 to 105.492 shall be on a form prescribed by the commission and shall be signed and verified by a written declaration that it is made under penalties of perjury; provided, however, the form shall not seek information which is not specifically required by sections 105.483 to 105.492.

2. Each person required to file a financial interest statement pursuant to subdivisions (1) to (12) of section 105.483 shall file the following information for himself, his spouse and dependent children at any time during the period covered by the statement, whether singularly or collectively; provided, however, that said person, if he does not know and his spouse will not divulge any information required to be reported by this section concerning the financial interest of his spouse, shall state on his financial interest statement that he has disclosed that information known to him and that his spouse has refused or failed to provide other information upon his bona fide request, and such statement shall be deemed to satisfy the requirements of this section for such financial interest of his spouse; and provided further if the spouse of any person required to file a financial interest statement is also required by section 105.483 to file a financial interest statement, the financial interest statement filed by each need not disclose the financial interest of the other, provided that each financial interest statement shall state that the spouse of the person has filed a separate financial interest statement and the name under which the statement was filed:

(1) The name and address of each of the employers of such person from whom income of one thousand dollars or more was received during the year covered by the statement;

(2) The name and address of each sole proprietorship which he owned; the name, address and the general nature of the business conducted of each general partnership and joint venture in which he was a partner or participant; the name and address of each partner or coparticipant for each partnership or joint venture unless such names and addresses are filed by the partnership or joint venture with the secretary of state; the name, address and general nature of the business conducted of any closely held corporation or limited partnership in which the person owned ten percent or more of any class of the outstanding stock or limited partners' units; and the name of any publicly traded corporation or limited partnership which is listed on a regulated stock exchange or automated quotation system in which the person owned two percent or more of any class of outstanding stock, limited partnership units or other equity interests;

(3) The name and address of any other source not reported pursuant to subdivisions (1) and (2) and subdivisions (4) to (9) of this subsection from which such person received one thousand dollars or more of income during the year covered by the statement, including, but not limited to, any income otherwise required to be reported on any tax return such person is required by law to file; except that only the name of any publicly traded corporation or limited partnership which is listed on a regulated stock exchange or automated quotation system need be reported pursuant to this subdivision;

(4) The location by county, the subclassification for property tax assessment purposes, the approximate size and a description of the major improvements and use for each parcel of real property in the state, other than the individual's personal residence, having a fair market value of ten thousand dollars or more in which such person held a vested interest including a leasehold for a term of ten years or longer, and, if the property was transferred during the year covered by the statement, the name and address of the persons furnishing or receiving consideration for such transfer;

(5) The name and address of each entity in which such person owned stock, bonds or other equity interest with a value in excess of ten thousand dollars; except that, if the entity is a corporation listed on a regulated stock exchange, only the name of the corporation need be listed; and provided that any member of any board or commission of the state or any political subdivision who does not receive any compensation for his services to the state or political subdivision other than reimbursement for his actual expenses or a per diem allowance as prescribed by law for each day of such service, need not report interests in publicly traded corporations or limited partnerships which are listed on a regulated stock exchange or automated quotation system pursuant to this subdivision; and provided further that the provisions of this subdivision shall not require reporting of any interest in any qualified plan or annuity pursuant to the Employees' Retirement Income Security Act;

(6) The name and address of each corporation for which such person served in the capacity of a director, officer or receiver;

(7) The name and address of each not-for-profit corporation and each association, organization, or union, whether incorporated or not, except not-for-profit corporations formed to provide church services, fraternal organizations or service clubs from which the officer or employee draws no remuneration, in which such person was an officer, director, employee or trustee at any time during the year covered by the statement, and for each such organization, a general description of the nature and purpose of the organization;

(8) The name and address of each source from which such person received a gift or gifts, or honorarium or honoraria in excess of two hundred dollars in value per source during the year covered by the statement other than gifts from persons within the third degree of consanguinity or affinity of the person filing the financial interest statement. For the purposes of this section, a gift shall not be construed to mean political contributions otherwise required to be reported by law or hospitality such as food, beverages or admissions to social, art, or sporting events or the like, or informational material. For the purposes of this section, a gift shall include gifts to or by creditors of the individual for the purpose of canceling, reducing or otherwise forgiving the indebtedness of the individual to that creditor;

(9) The lodging and travel expenses provided by any third person for expenses incurred outside the state of Missouri whether by gift or in relation to the duties of office of such official, except that such statement shall not include travel or lodging expenses:

(a) Paid in the ordinary course of business for businesses described in subdivisions (1), (2), (5) and (6) of this subsection which are related to the duties of office of such official; or

(b) For which the official may be reimbursed as provided by law; or

(c) Paid by persons related by the third degree of consanguinity or affinity to the person filing the statement; or

(d) Expenses which are reported by the campaign committee or candidate committee of the person filing the statement pursuant to the provisions of chapter 130, RSMo; or

(e) Paid for purely personal purposes which are not related to the person's official duties by a third person who is not a lobbyist, a lobbyist principal or member, or officer or director of a member, of any association or entity which employs a lobbyist. The statement shall include the name and address of such person who paid the expenses, the date such expenses were incurred, the amount incurred, the location of the travel and lodging, and the nature of the services rendered or reason for the expenses;

(10) The assets in any revocable trust of which the individual is the settlor if such assets would otherwise be required to be reported under this section;

(11) The name, position and relationship of any relative within the first degree of consanguinity or affinity to any other person who:

(a) Is employed by the state of Missouri, by a political subdivision of the state or special district, as defined in section 115.013, RSMo, of the state of Missouri;

(b) Is a lobbyist; or

(c) Is a fee agent of the department of revenue;

(12) **The name and address of each campaign committee, political committee, candidate committee, or continuing committee for which such person or any corporation listed on such person's financial interest statement received payment.**

3. For the purposes of subdivisions (1), (2) and (3) of subsection 2 of this section, an individual shall be deemed to have received a salary from his employer or income from any source at the time when he shall receive a negotiable instrument whether or not payable at a later date and at the time when under the practice of his employer or the terms of an agreement, he has earned or is entitled to anything of actual value whether or not delivery of the value is deferred or right to it has vested. The term "income" as used in this section shall have the same meaning as provided in the Internal Revenue Code of 1986, and amendments thereto, as the same may be or becomes effective, at any time or from time to time for the taxable year, provided that income shall not be considered received or earned for purposes of this section from a partnership or sole proprietorship until such income is converted from business to personal use.

4. Each official, officer or employee or candidate of any political subdivision described in subdivision (11) of section 105.483 shall be required to file a financial interest statement as required by subsection 2 of this section, unless the political subdivision biennially adopts an ordinance, order or resolution at an open meeting by September fifteenth of the preceding year, which establishes and makes public its own method of disclosing potential conflicts of interest and substantial interests and therefore excludes the political subdivision or district and its officers and employees from the requirements of subsection 2 of this section. A certified copy of the ordinance, order or resolution shall be sent to the commission within ten days of its adoption. The commission shall assist any political subdivision in developing forms to complete the requirements of this subsection. The ordinance, order or resolution shall contain, at a minimum, the following requirements with respect to disclosure of substantial interests:

(1) Disclosure in writing of the following described transactions, if any such transactions were engaged in during the calendar year:

(a) For such person, and all persons within the first degree of consanguinity or affinity of such person, the date and the identities of the parties to each transaction with a total value in excess of five hundred dollars, if any, that such person had with the political subdivision, other than compensation received as an employee or payment of any tax, fee or penalty due to the political subdivision, and other than transfers for no consideration to the political subdivision;

(b) The date and the identities of the parties to each transaction known to the person with a total value in excess of five hundred dollars, if any, that any business entity in which such person had a substantial interest, had with the political subdivision, other than payment of any tax, fee or penalty due to the political subdivision or transactions involving payment for providing utility service to the political subdivision, and other than transfers for no consideration to the political subdivision;

(2) The chief administrative officer and chief purchasing officer of such political subdivision shall disclose in writing the information described in subdivisions (1), (2) and (6) of subsection 2 of this section;

(3) Disclosure of such other financial interests applicable to officials, officers and employees of the political subdivision, as may be required by the ordinance or resolution;

(4) Duplicate disclosure reports made pursuant to this subsection shall be filed with the commission and the governing body of the political subdivision. The clerk of such governing body shall maintain such disclosure reports available for public inspection and copying during normal business hours.

105.957. RECEIPT OF COMPLAINTS — FORM — INVESTIGATION — DISMISSAL OF FRIVOLOUS COMPLAINTS, DAMAGES, PUBLIC REPORT. — 1. The commission shall receive any complaints alleging violation of the provisions of:

- (1) The requirements imposed on lobbyists by sections 105.470 to 105.478;
- (2) The financial interest disclosure requirements contained in sections 105.483 to 105.492;
- (3) The campaign finance disclosure requirements contained in chapter 130, RSMo;
- (4) Any code of conduct promulgated by any department, division or agency of state government, or by state institutions of higher education, or by executive order;
- (5) The conflict of interest laws contained in sections 105.450 to 105.468 and section 171.181, RSMo; and
- (6) The provisions of the constitution or state statute or order, ordinance or resolution of any political subdivision relating to the official conduct of officials or employees of the state and political subdivisions.

2. Complaints filed with the commission shall be in writing and filed only by a natural person. The complaint shall contain all facts known by the complainant that have given rise to the complaint and the complaint shall be sworn to, under penalty of perjury, by the complainant. No complaint shall be investigated unless the complaint alleges facts which, if true, fall within the jurisdiction of the commission. **Within five days after receipt of a complaint by the commission, a copy of the complaint, including the name of the complainant, shall be delivered to the alleged violator.**

3. No complaint shall be investigated which concerns alleged criminal conduct which allegedly occurred previous to the period of time allowed by law for criminal prosecution for such conduct. The commission may refuse to investigate any conduct which is the subject of civil or criminal litigation. The commission, its executive director or an investigator shall not investigate any complaint concerning conduct which is not criminal in nature which occurred more than two years prior to the date of the complaint. A complaint alleging misconduct on the part of a candidate for public office, other than those alleging failure to file the appropriate financial interest statements or campaign finance disclosure reports, shall not be accepted by the commission within sixty days prior to the primary election at which such candidate is running for office, and until after the general election.

4. **If the commission finds that any complaint is frivolous in nature or finds no probable cause to believe that there has been a violation, the commission shall dismiss the case. For purposes of this subsection, "frivolous" shall mean a complaint clearly lacking any basis in fact or law. Any person who submits a frivolous complaint shall be liable for actual and compensatory damages to the alleged violator for holding the alleged violator before the public in a false light. If the commission finds that a complaint is frivolous or that there is not probable cause to believe there has been a violation, the commission shall issue a public report to the complainant and the alleged violator stating with particularity its reasons for dismissal of the complaint. Upon such issuance, the complaint and all materials relating to the complaint shall be a public record as defined in chapter 610, RSMo.**

5. Complaints which allege violations as described in this section which are filed with the commission shall be handled as provided by section 105.961.

105.959. REVIEW OF REPORTS AND STATEMENTS, NOTICE — AUDITS AND INVESTIGATIONS — FORMAL INVESTIGATIONS — REPORT — REFERRAL OF REPORT. — 1. The executive director of the commission, under the supervision of the commission, shall review reports and statements filed with the commission or other appropriate officers pursuant to sections 105.470, 105.483 to 105.492, and chapter 130, RSMo, for completeness, accuracy and timeliness of filing of the reports or statements, and upon review, if there are reasonable grounds to believe that a violation has occurred, shall conduct an audit of such reports and statements. All investigations by the executive director of an alleged violation shall be strictly confidential with the exception of notification of the commission and the complainant or the person under investigation. **All investigations by the executive director shall be limited to the information contained in the reports or statements. The commission shall notify the complainant or the person under investigation, by registered mail, within five days of the decision to conduct such investigation.** Revealing any such confidential investigation information shall be cause for removal or dismissal of the executive director or a commission member or employee.

2. Upon findings of the appropriate filing officer which are reported to the commission in accordance with the provisions of section 130.056, RSMo, the executive director shall audit disclosure reports, statements and records pertaining to such findings within a reasonable time after receipt of the reports from the appropriate filing officer.

3. Upon a sworn written complaint of any natural person filed with the commission pursuant to section 105.957, the commission shall audit and investigate alleged violations. Within sixty days after receipt of a sworn written complaint alleging a violation, the executive director shall notify the complainant in writing of the action, if any, the executive director has taken and plans to take on the complaint. If an investigation conducted pursuant to this subsection fails to establish reasonable grounds to believe that a violation has occurred, the investigation shall be terminated and the complainant and the person who had been under investigation shall be notified of the reasons for the disposition of the complaint.

4. The commission may make such investigations and inspections within or outside of this state as are necessary to determine compliance.

5. If, during an audit or investigation, the commission determines that a formal investigation is necessary, the commission shall assign the investigation to a special investigator in the manner provided by subsection 1 of section 105.961.

6. After completion of an audit or investigation, the executive director shall provide a detailed report of such audit or investigation to the commission. Upon determination that there are reasonable grounds to believe that a person has violated the requirements of sections 105.470, 105.483 to 105.492, or chapter 130, RSMo, by a vote of four members of the commission, the commission may refer the report with the recommendations of the commission to the appropriate prosecuting authority together with a copy of the audit and the details of the investigation by the commission as is provided in subsection 2 of section 105.961.

105.963. ASSESSMENTS OF COMMITTEES, CAMPAIGN DISCLOSURE REPORTS — NOTICE — PENALTY — ASSESSMENTS OF FINANCIAL INTEREST STATEMENTS — NOTICE — PENALTIES — EFFECTIVE DATE. — 1. The executive director shall assess every [candidate for state or local office] **committee, as defined in section 130.011, RSMo,** failing to file with a filing officer other than a local election authority as provided by section 130.026, RSMo, a campaign disclosure report as required by chapter 130, RSMo, other than the report required pursuant to subdivision (1) of subsection 1 of section 130.046, RSMo, a late filing fee of ten dollars for each day after such report is due to the commission. The executive director shall mail a notice, by registered mail, to any candidate and [candidate committee treasurer and deputy treasurer] **the treasurer of any committee** who fails to file such report informing such person

of such failure and the fees provided by this section. If the candidate **or treasurer of any committee** persists in such failure for a period in excess of thirty days beyond receipt of such notice, the amount of the late filing fee shall increase to one hundred dollars for each day that the report is not filed, provided that the total amount of such fees assessed pursuant to this subsection per report shall not exceed three thousand dollars.

2. (1) Any candidate for state or local office who fails to file a campaign disclosure report required pursuant to subdivision (1) of subsection 1 of section 130.046, RSMo, other than a report required to be filed with a local election authority as provided by section 130.026, RSMo, shall be assessed by the executive director a late filing fee of one hundred dollars for each day that the report is not filed, until the first day after the date of the election. After such election date, the amount of such late filing fee shall accrue at the rate of ten dollars per day that such report remains unfiled, except as provided in subdivision (2) of this subsection.

(2) The executive director shall mail a notice, by certified mail or other means to give actual notice, to any candidate [and candidate committee treasurer and deputy treasurer] who fails to file the report described in subdivision (1) of this subsection informing such person of such failure and the fees provided by this section. If the candidate persists in such failure for a period in excess of thirty days beyond receipt of such notice, the amount of the late filing fee shall increase to one hundred dollars for each day that the report is not filed, provided that the total amount of such fees assessed pursuant to this subsection per report shall not exceed six thousand dollars.

3. The executive director shall assess every person required to file a financial interest statement pursuant to sections 105.483 to 105.492 failing to file such a financial interest statement with the commission a late filing fee of ten dollars for each day after such statement is due to the commission. The executive director shall mail a notice, by certified mail, to any person who fails to file such statement informing the individual required to file of such failure and the fees provided by this section. If the person persists in such failure for a period in excess of thirty days beyond receipt of such notice, the amount of the late filing fee shall increase to one hundred dollars for each day thereafter that the statement is late, provided that the total amount of such fees assessed pursuant to this subsection per statement shall not exceed six thousand dollars.

4. Any person assessed a late filing fee may seek review of such assessment or the amount of late filing fees assessed, at the person's option, by filing a petition within fourteen days after receiving actual notice of assessment with the administrative hearing commission, or without exhausting the person's administrative remedies may seek review of such issues with the circuit court of Cole County.

5. The executive director of the Missouri ethics commission shall collect such late filing fees as are provided for in this section. Unpaid late filing fees shall be collected by action filed by the commission. The commission shall contract with the appropriate entity to collect such late filing fees after a thirty-day delinquency. If not collected within one hundred twenty days, the Missouri ethics commission shall file a petition in Cole County circuit court to seek a judgment on said fees. All late filing fees collected pursuant to this section shall be transmitted to the state treasurer and deposited to the general revenue fund.

6. The late filing fees provided by this section shall be in addition to any penalty provided by law for violations of sections 105.483 to 105.492 or chapter 130, RSMo.

7. If any candidate fails to file a campaign disclosure report in a timely manner and that candidate is assessed a late filing fee, the candidate, candidate committee treasurer or assistant treasurer may file an appeal of the assessment of the late filing fee with the commission. The commission may forgive the assessment of the late filing fee upon a showing of good cause. Such appeal shall be filed within ten days of the receipt of notice of the assessment of the late filing fee.

115.342. DISQUALIFICATION FOR DELINQUENT TAXES — AFFIDAVIT, FORM — COMPLAINTS, INVESTIGATION, NOTICE, PAYMENT OF TAXES. — 1. Any person who files as a candidate for election to a public office shall be disqualified from participation in the election for which the candidate has filed if such person is delinquent in the payment of any state income taxes, personal property taxes, real property taxes on the place of residence, as stated on the declaration of candidacy, or if the person is a past or present corporate officer of any fee office that owes any taxes to the state.

2. Each potential candidate for election to a public office shall file an affidavit with the department of revenue and include a copy of the affidavit with the declaration of candidacy required under section 115.349, RSMo. Such affidavit shall be in substantially the following form:

"AFFIRMATION OF TAX PAYMENTS:

I hereby declare under penalties of perjury that I am not currently aware of any delinquency in the filing or payment of any state income taxes, personal property taxes, real property taxes on the place of residence, as stated on the declaration of candidacy, or that I am a past or present corporate officer of any fee office that owes any taxes to the state, other than those taxes which may be in dispute.

..... Candidate's Signature

..... Printed Name of Candidate."

3. Upon receipt of a complaint alleging a delinquency of the candidate in the filing or payment of any state income taxes, personal property taxes, real property taxes on the place of residence, as stated on the declaration of candidacy, or if the person is a past or present corporate officer of any fee office that owes any taxes to the state, the department of revenue shall investigate such potential candidate to verify the claim contained in the complaint. If the department of revenue finds a positive affirmation to be false, the department shall contact the secretary of state, or the election official who accepted such candidate's declaration of candidacy, and the potential candidate. The department shall notify the candidate of the outstanding tax owed and give the candidate thirty days to remit any such outstanding taxes owed which are not the subject of dispute between the department and the candidate. If the candidate fails to remit such amounts in full within thirty days, the candidate shall be disqualified from participating in the current election and barred from refiling for an entire election cycle even if the individual pays all of the outstanding taxes that were the subject of the complaint.

115.350. CONVICTION OR PLEA UNDER STATE LAWS, DISQUALIFICATION FOR ELECTIVE PUBLIC OFFICE. — No person shall qualify as a candidate for elective public office in the state of Missouri who has been convicted of or found guilty of or pled guilty to a felony under the laws of this state.

130.011. DEFINITIONS. — As used in this chapter, unless the context clearly indicates otherwise, the following terms mean:

(1) "Appropriate officer" or "appropriate officers", the person or persons designated in section 130.026 to receive certain required statements and reports;

(2) "Ballot measure" or "measure", any proposal submitted or intended to be submitted to qualified voters for their approval or rejection, including any proposal submitted by initiative petition, referendum petition, or by the general assembly or any local governmental body having authority to refer proposals to the voter;

(3) "Candidate", an individual who seeks nomination or election to public office. The term "candidate" includes an elected officeholder who is the subject of a recall election, an individual who seeks nomination by the individual's political party for election to public office, an individual standing for retention in an election to an office to which the individual was previously appointed, an individual who seeks nomination or election whether or not the specific elective

public office to be sought has been finally determined by such individual at the time the individual meets the conditions described in paragraph (a) or (b) of this subdivision, and an individual who is a "write-in candidate" as defined in subdivision (28) of this section. A candidate shall be deemed to seek nomination or election when the person first:

(a) Receives contributions or makes expenditures or reserves space or facilities with intent to promote the person's candidacy for office; or

(b) Knows or has reason to know that contributions are being received or expenditures are being made or space or facilities are being reserved with the intent to promote the person's candidacy for office; except that, such individual shall not be deemed a candidate if the person files a statement with the appropriate officer within five days after learning of the receipt of contributions, the making of expenditures, or the reservation of space or facilities disavowing the candidacy and stating that the person will not accept nomination or take office if elected; provided that, if the election at which such individual is supported as a candidate is to take place within five days after the person's learning of the above-specified activities, the individual shall file the statement disavowing the candidacy within one day; or

(c) Announces or files a declaration of candidacy for office;

(4) "Cash", currency, coin, United States postage stamps, or any negotiable instrument which can be transferred from one person to another person without the signature or endorsement of the transferor;

(5) "Check", a check drawn on a state or federal bank, or a draft on a negotiable order of withdrawal account in a savings and loan association or a share draft account in a credit union;

(6) "Closing date", the date through which a statement or report is required to be complete;

(7) "Committee", a person or any combination of persons, who accepts contributions or makes expenditures for the primary or incidental purpose of influencing or attempting to influence the action of voters for or against the nomination or election to public office of one or more candidates or the qualification, passage or defeat of any ballot measure or for the purpose of paying a previously incurred campaign debt or obligation of a candidate or the debts or obligations of a committee or for the purpose of contributing funds to another committee:

(a) "Committee", does not include:

a. A person or combination of persons, if neither the aggregate of expenditures made nor the aggregate of contributions received during a calendar year exceeds five hundred dollars and if no single contributor has contributed more than two hundred fifty dollars of such aggregate contributions;

b. An individual, other than a candidate, who accepts no contributions and who deals only with the individual's own funds or property;

c. A corporation, cooperative association, partnership, proprietorship, or joint venture organized or operated for a primary or principal purpose other than that of influencing or attempting to influence the action of voters for or against the nomination or election to public office of one or more candidates or the qualification, passage or defeat of any ballot measure, and it accepts no contributions, and all expenditures it makes are from its own funds or property obtained in the usual course of business or in any commercial or other transaction and which are not contributions as defined by subdivision (12) of this section;

d. A labor organization organized or operated for a primary or principal purpose other than that of influencing or attempting to influence the action of voters for or against the nomination or election to public office of one or more candidates, or the qualification, passage, or defeat of any ballot measure, and it accepts no contributions, and expenditures made by the organization are from its own funds or property received from membership dues or membership fees which were given or solicited for the purpose of supporting the normal and usual activities and functions of the organization and which are not contributions as defined by subdivision (12) of this section;

e. A person who acts as an authorized agent for a committee in soliciting or receiving contributions or in making expenditures or incurring indebtedness on behalf of the committee

if such person renders to the committee treasurer or deputy treasurer or candidate, if applicable, an accurate account of each receipt or other transaction in the detail required by the treasurer to comply with all record keeping and reporting requirements of this chapter;

f. Any department, agency, board, institution or other entity of the state or any of its subdivisions or any officer or employee thereof, acting in the person's official capacity;

(b) The term "committee" includes, but is not limited to, each of the following committees: campaign committee, candidate committee, continuing committee and political party committee;

(8) "Campaign committee", a committee, other than a candidate committee, which shall be formed by an individual or group of individuals to receive contributions or make expenditures and whose sole purpose is to support or oppose the qualification and passage of one or more particular ballot measures in an election or the retention of judges under the nonpartisan court plan, such committee shall be formed no later than thirty days prior to the election for which the committee receives contributions or makes expenditures, and which shall terminate the later of either thirty days after the general election or upon the satisfaction of all committee debt after the general election, except that no committee retiring debt shall engage in any other activities in support of a measure for which the committee was formed;

(9) "Candidate committee", a committee which shall be formed by a candidate to receive contributions or make expenditures in behalf of the person's candidacy and which shall continue in existence for use by an elected candidate or which shall terminate the later of either thirty days after the general election for a candidate who was not elected or upon the satisfaction of all committee debt after the election, except that no committee retiring debt shall engage in any other activities in support of the candidate for which the committee was formed. Any candidate for elective office shall have only one candidate committee for the elective office sought, which is controlled directly by the candidate for the purpose of making expenditures. A candidate committee is presumed to be under the control and direction of the candidate unless the candidate files an affidavit with the appropriate officer stating that the committee is acting without control or direction on the candidate's part;

(10) "Continuing committee", a committee of continuing existence which is not formed, controlled or directed by a candidate, and is a committee other than a candidate committee or campaign committee, whose primary or incidental purpose is to receive contributions or make expenditures to influence or attempt to influence the action of voters whether or not a particular candidate or candidates or a particular ballot measure or measures to be supported or opposed has been determined at the time the committee is required to file any statement or report pursuant to the provisions of this chapter. "Continuing committee" includes, but is not limited to, any committee organized or sponsored by a business entity, a labor organization, a professional association, a trade or business association, a club or other organization and whose primary purpose is to solicit, accept and use contributions from the members, employees or stockholders of such entity and any individual or group of individuals who accept and use contributions to influence or attempt to influence the action of voters. Such committee shall be formed no later than [thirty] **sixty** days prior to the election for which the committee receives contributions or makes expenditures;

(11) "Connected organization", any organization such as a corporation, a labor organization, a membership organization, a cooperative, or trade or professional association which expends funds or provides services or facilities to establish, administer or maintain a committee or to solicit contributions to a committee from its members, officers, directors, employees or security holders. An organization shall be deemed to be the connected organization if more than fifty percent of the persons making contributions to the committee during the current calendar year are members, officers, directors, employees or security holders of such organization or their spouses;

(12) "Contribution", a payment, gift, loan, advance, deposit, or donation of money or anything of value for the purpose of supporting or opposing the nomination or election of any candidate for public office or the qualification, passage or defeat of any ballot measure, or for the

support of any committee supporting or opposing candidates or ballot measures or for paying debts or obligations of any candidate or committee previously incurred for the above purposes. A contribution of anything of value shall be deemed to have a money value equivalent to the fair market value. "Contribution" includes, but is not limited to:

(a) A candidate's own money or property used in support of the person's candidacy other than expense of the candidate's food, lodging, travel, and payment of any fee necessary to the filing for public office;

(b) Payment by any person, other than a candidate or committee, to compensate another person for services rendered to that candidate or committee;

(c) Receipts from the sale of goods and services, including the sale of advertising space in a brochure, booklet, program or pamphlet of a candidate or committee and the sale of tickets or political merchandise;

(d) Receipts from fund-raising events including testimonial affairs;

(e) Any loan, guarantee of a loan, cancellation or forgiveness of a loan or debt or other obligation by a third party, or payment of a loan or debt or other obligation by a third party if the loan or debt or other obligation was contracted, used, or intended, in whole or in part, for use in an election campaign or used or intended for the payment of such debts or obligations of a candidate or committee previously incurred, or which was made or received by a committee;

(f) Funds received by a committee which are transferred to such committee from another committee or other source, except funds received by a candidate committee as a transfer of funds from another candidate committee controlled by the same candidate but such transfer shall be included in the disclosure reports;

(g) Facilities, office space or equipment supplied by any person to a candidate or committee without charge or at reduced charges, except gratuitous space for meeting purposes which is made available regularly to the public, including other candidates or committees, on an equal basis for similar purposes on the same conditions;

(h) The direct or indirect payment by any person, other than a connected organization, of the costs of establishing, administering, or maintaining a committee, including legal, accounting and computer services, fund raising and solicitation of contributions for a committee;

(i) "Contribution" does not include:

a. Ordinary home hospitality or services provided without compensation by individuals volunteering their time in support of or in opposition to a candidate, committee or ballot measure, nor the necessary and ordinary personal expenses of such volunteers incidental to the performance of voluntary activities, so long as no compensation is directly or indirectly asked or given;

b. An offer or tender of a contribution which is expressly and unconditionally rejected and returned to the donor within ten business days after receipt or transmitted to the state treasurer;

c. Interest earned on deposit of committee funds;

d. The costs incurred by any connected organization listed pursuant to subdivision (4) of subsection 5 of section 130.021 for establishing, administering or maintaining a committee, or for the solicitation of contributions to a committee which solicitation is solely directed or related to the members, officers, directors, employees or security holders of the connected organization;

(13) "County", any one of the several counties of this state or the city of St. Louis;

(14) "Disclosure report", an itemized report of receipts, expenditures and incurred indebtedness which is prepared on forms approved by the Missouri ethics commission and filed at the times and places prescribed;

(15) "Election", any primary, general or special election held to nominate or elect an individual to public office, to retain or recall an elected officeholder or to submit a ballot measure to the voters, and any caucus or other meeting of a political party or a political party committee at which that party's candidate or candidates for public office are officially selected. A primary election and the succeeding general election shall be considered separate elections;

(16) "Expenditure", a payment, advance, conveyance, deposit, donation or contribution of money or anything of value for the purpose of supporting or opposing the nomination or election of any candidate for public office or the qualification or passage of any ballot measure or for the support of any committee which in turn supports or opposes any candidate or ballot measure or for the purpose of paying a previously incurred campaign debt or obligation of a candidate or the debts or obligations of a committee; a payment, or an agreement or promise to pay, money or anything of value, including a candidate's own money or property, for the purchase of goods, services, property, facilities or anything of value for the purpose of supporting or opposing the nomination or election of any candidate for public office or the qualification or passage of any ballot measure or for the support of any committee which in turn supports or opposes any candidate or ballot measure or for the purpose of paying a previously incurred campaign debt or obligation of a candidate or the debts or obligations of a committee. An expenditure of anything of value shall be deemed to have a money value equivalent to the fair market value. "Expenditure" includes, but is not limited to:

(a) Payment by anyone other than a committee for services of another person rendered to such committee;

(b) The purchase of tickets, goods, services or political merchandise in connection with any testimonial affair or fund-raising event of or for candidates or committees, or the purchase of advertising in a brochure, booklet, program or pamphlet of a candidate or committee;

(c) The transfer of funds by one committee to another committee;

(d) The direct or indirect payment by any person, other than a connected organization for a committee, of the costs of establishing, administering or maintaining a committee, including legal, accounting and computer services, fund raising and solicitation of contributions for a committee; but

(e) "Expenditure" does not include:

a. Any news story, commentary or editorial which is broadcast or published by any broadcasting station, newspaper, magazine or other periodical without charge to the candidate or to any person supporting or opposing a candidate or ballot measure;

b. The internal dissemination by any membership organization, proprietorship, labor organization, corporation, association or other entity of information advocating the election or defeat of a candidate or candidates or the passage or defeat of a ballot measure or measures to its directors, officers, members, employees or security holders, provided that the cost incurred is reported pursuant to subsection 2 of section 130.051;

c. Repayment of a loan, but such repayment shall be indicated in required reports;

d. The rendering of voluntary personal services by an individual of the sort commonly performed by volunteer campaign workers and the payment by such individual of the individual's necessary and ordinary personal expenses incidental to such volunteer activity, provided no compensation is, directly or indirectly, asked or given;

e. The costs incurred by any connected organization listed pursuant to subdivision (4) of subsection 5 of section 130.021 for establishing, administering or maintaining a committee, or for the solicitation of contributions to a committee which solicitation is solely directed or related to the members, officers, directors, employees or security holders of the connected organization;

f. The use of a candidate's own money or property for expense of the candidate's personal food, lodging, travel, and payment of any fee necessary to the filing for public office, if such expense is not reimbursed to the candidate from any source;

(17) "Exploratory committees", a committee which shall be formed by an individual to receive contributions and make expenditures on behalf of this individual in determining whether or not the individual seeks elective office. Such committee shall terminate no later than December thirty-first of the year prior to the general election for the possible office;

(18) "Fund-raising event", an event such as a dinner, luncheon, reception, coffee, testimonial, rally, auction or similar affair through which contributions are solicited or received

by such means as the purchase of tickets, payment of attendance fees, donations for prizes or through the purchase of goods, services or political merchandise;

(19) "In-kind contribution" or "in-kind expenditure", a contribution or expenditure in a form other than money;

(20) "Labor organization", any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work;

(21) "Loan", a transfer of money, property or anything of ascertainable monetary value in exchange for an obligation, conditional or not, to repay in whole or in part and which was contracted, used, or intended for use in an election campaign, or which was made or received by a committee or which was contracted, used, or intended to pay previously incurred campaign debts or obligations of a candidate or the debts or obligations of a committee;

(22) "Person", an individual, group of individuals, corporation, partnership, committee, proprietorship, joint venture, any department, agency, board, institution or other entity of the state or any of its political subdivisions, union, labor organization, trade or professional or business association, association, political party or any executive committee thereof, or any other club or organization however constituted or any officer or employee of such entity acting in the person's official capacity;

(23) "Political merchandise", goods such as bumper stickers, pins, hats, ties, jewelry, literature, or other items sold or distributed at a fund-raising event or to the general public for publicity or for the purpose of raising funds to be used in supporting or opposing a candidate for nomination or election or in supporting or opposing the qualification, passage or defeat of a ballot measure;

(24) "Political party", a political party which has the right under law to have the names of its candidates listed on the ballot in a general election;

(25) "Political party committee", a state, district, county, city, or area committee of a political party, as defined in section 115.603, RSMo, which may be organized as a not-for-profit corporation under Missouri law, and which committee is of continuing existence, and has the primary or incidental purpose of receiving contributions and making expenditures to influence or attempt to influence the action of voters on behalf of the political party;

(26) "Public office" or "office", any state, judicial, county, municipal, school or other district, ward, township, or other political subdivision office or any political party office which is filled by a vote of registered voters;

(27) "Regular session", includes that period beginning on the first Wednesday after the first Monday in January and ending following the first Friday after the second Monday in May;

(28) "Write-in candidate", an individual whose name is not printed on the ballot but who otherwise meets the definition of "candidate" in subdivision (3) of this section.

130.016. CERTAIN CANDIDATES EXEMPT FROM FILING REQUIREMENTS — PROCEDURE FOR EXEMPTION — RESTRICTIONS ON SUBSEQUENT CONTRIBUTIONS AND EXPENDITURES — REJECTION OF EXEMPTION — CANDIDATE COMMITTEES FOR CERTAIN GENERAL ASSEMBLY LEADERSHIP OFFICES PROHIBITED. — 1. No candidate for statewide elected office, general assembly, or municipal office in a city with a population of more than one hundred thousand shall be required to comply with the requirements to file a statement of organization or disclosure reports of contributions and expenditures for any election in which neither the aggregate of contributions received nor the aggregate of expenditures made on behalf of such candidate exceeds five hundred dollars and no single contributor, other than the candidate, has contributed more than the amount of the limitation on contributions to elect an individual to the office of state representative as calculated in subsection 2 of section 130.032, provided that:

(1) The candidate files a sworn exemption statement with the appropriate officer that the candidate does not intend to either receive contributions or make expenditures in the aggregate

of more than five hundred dollars or receive contributions from any single contributor, other than the candidate, that aggregate more than the amount of the limitation on contributions to elect an individual to the office of state representative as calculated in subsection 2 of section 130.032, and that the total of all contributions received or expenditures made by the candidate and all committees or any other person with the candidate's knowledge and consent in support of the candidacy will not exceed five hundred dollars and that the aggregate of contributions received from any single contributor will not exceed the amount of the limitation on contributions to elect an individual to the office of state representative as calculated in subsection 2 of section 130.032. Such exemption statement shall be filed no later than the date set forth in section 130.046 on which a disclosure report would otherwise be required if the candidate does not file the exemption statement. The exemption statement shall be filed on a form furnished to each appropriate officer by the executive director of the Missouri ethics commission. Each appropriate officer shall make the exemption statement available to candidates and shall direct each candidate's attention to the exemption statement and explain its purpose to the candidate; and

(2) The sworn exemption statement includes a statement that the candidate understands that records of contributions and expenditures must be maintained from the time the candidate first receives contributions or makes expenditures and that an exemption from filing a statement of organization or disclosure reports does not exempt the candidate from other provisions of this chapter. Each candidate described in this subsection who files a statement of exemption shall file a statement of limited activity for each reporting period described in section 130.046.

2. Any candidate who has filed an exemption statement as provided in subsection 1 of this section shall not accept any contribution or make any expenditure in support of the person's candidacy, either directly or indirectly or by or through any committee or any other person acting with the candidate's knowledge and consent, which would cause such contributions or expenditures to exceed the limits specified in subdivision (1) of subsection 1 of this section unless the candidate later rejects the exemption pursuant to subsection 3 of this section. Any contribution received in excess of such limits shall be returned to the donor or transmitted to the state treasurer to escheat to the state.

3. If, after filing the exemption statement provided for in this section, the candidate subsequently determines the candidate wishes to exceed any of the limits in subdivision (1) of subsection 1 of this section, the candidate shall file a notice of rejection of the exemption with the appropriate officer; however, such rejection shall not be filed later than thirty days before election. A notice of rejection of exemption shall be accompanied by a statement of organization as required by section 130.021 and any other statements and reports which would have been required if the candidate had not filed an exemption statement.

4. A primary election and the immediately succeeding general election are separate elections, and restrictions on contributions and expenditures set forth in subsection 2 of this section shall apply to each election; however, if a successful primary candidate has correctly filed an exemption statement prior to the primary election and has not filed a notice of rejection prior to the date on which the first disclosure report applicable to the succeeding general election is required to be filed, the candidate shall not be required to file an exemption statement for that general election if the limitations set forth in subsection 1 of this section apply to the succeeding general election.

5. A candidate who has an existing candidate committee formed for a prior election for which all statements and reports required by this chapter have been properly filed shall be eligible to file the exemption statement as provided in subsection 1 of this section and shall not be required to file the disclosure reports pertaining to the election for which the candidate is eligible to file the exemption statement if the candidate and the treasurer or deputy treasurer of such existing candidate committee continue to comply with the requirements, limitations and restrictions set forth in subsections 1, 2, 3 and 4 of this section. The exemption permitted by this subsection does not exempt a candidate or the treasurer of the candidate's existing candidate

committee from complying with the requirements of subsections 6 and 7 of section 130.046 applicable to a prior election.

6. No candidate for supreme court, circuit court, or associate circuit court, or candidate for political party office, or for county office or municipal office in a city of one hundred thousand or less, or for any special purpose district office shall be required to file an exemption statement pursuant to this section in order to be exempted from forming a committee and filing disclosure reports required of committees pursuant to this chapter if the aggregate of contributions received or expenditures made by the candidate and any other person with the candidate's knowledge and consent in support of the person's candidacy does not exceed one thousand dollars and the aggregate of contributions from any single contributor does not exceed the amount of the limitation on contributions to elect an individual to the office of state representative as calculated in subsection 2 of section 130.032. No candidate for any office listed in this subsection shall be excused from complying with the provisions of any section of this chapter, other than the filing of an exemption statement under the conditions specified in this subsection.

7. If any candidate for an office listed in subsection 6 of this section exceeds the limits specified in subsection 6 of this section, the candidate shall form a committee no later than thirty days prior to the election for which the contributions were received or expended which shall comply with all provisions of this chapter for committees.

8. No member of or candidate for the general assembly shall form a candidate committee for the office of speaker of the house of representatives or president pro tem of the senate.

130.032. MONETARY CONTRIBUTIONS FROM POLITICAL PARTY COMMITTEES PROHIBITED — CONTRIBUTIONS NOT TO BE ACCEPTED DURING LEGISLATIVE SESSION, EXCEPTION. — 1. [In addition to the limitations imposed pursuant to section 130.031, the amount of contributions made by or accepted from any person other than the candidate in any one election shall not exceed the following:

- (1) To elect an individual to the office of governor, lieutenant governor, secretary of state, state treasurer, state auditor or attorney general, one thousand dollars;
- (2) To elect an individual to the office of state senator, five hundred dollars;
- (3) To elect an individual to the office of state representative, two hundred fifty dollars;
- (4) To elect an individual to any other office, including judicial office, if the population of the electoral district, ward, or other unit according to the latest decennial census is under one hundred thousand, two hundred fifty dollars;
- (5) To elect an individual to any other office, including judicial office, if the population of the electoral district, ward, or other unit according to the latest decennial census is at least one hundred thousand but less than two hundred fifty thousand, five hundred dollars; and
- (6) To elect an individual to any other office, including judicial office, if the population of the electoral district, ward, or other unit according to the latest decennial census is at least two hundred fifty thousand, one thousand dollars.

2. For purposes of this subsection "base year amount" shall be the contribution limits prescribed in this section on January 1, 1995. Such limits shall be increased on the first day of January in each even-numbered year by multiplying the base year amount by the cumulative consumer price index, as defined in section 104.010, RSMo, and rounded to the nearest twenty-five-dollar amount, for all years since January 1, 1995.

3. Candidate committees, exploratory committees, campaign committees and continuing committees, other than those continuing committees which are political party committees, shall be subject to the limits prescribed in subsection 1 of this section. The provisions of this subsection shall not limit the amount of contributions which may be accumulated by a candidate committee and used for expenditures to further the nomination or election of the candidate who controls such candidate committee, except as provided in section 130.052.

4. Except as limited by this subsection, the amount of cash contributions, and a separate amount for the amount of in-kind contributions, made by or accepted from a political party committee in any one election shall not exceed the following:

- (1) To elect an individual to the office of governor, lieutenant governor, secretary of state, state treasurer, state auditor or attorney general, ten thousand dollars;
- (2) To elect an individual to the office of state senator, five thousand dollars;
- (3) To elect an individual to the office of state representative, two thousand five hundred dollars; and
- (4) To elect an individual to any other office of an electoral district, ward or unit, ten times the allowable contribution limit for the office sought.

The amount of contributions which may be made by or accepted from a political party committee in the primary election to elect any candidate who is unopposed in such primary shall be fifty percent of the amount of the allowable contributions as determined in this subsection.

5. Contributions from persons under fourteen years of age shall be considered made by the parents or guardians of such person and shall be attributed toward any contribution limits prescribed in this chapter. Where the contributor under fourteen years of age has two custodial parents or guardians, fifty percent of the contribution shall be attributed to each parent or guardian, and where such contributor has one custodial parent or guardian, all such contributions shall be attributed to the custodial parent or guardian.

6. Contributions received and expenditures made prior to January 1, 1995, shall be reported as a separate account and pursuant to the laws in effect at the time such contributions are received or expenditures made. Contributions received and expenditures made after January 1, 1995, shall be reported as a separate account from the aforementioned account and pursuant to the provisions of this chapter. The account reported pursuant to the prior law shall be retained as a separate account and any remaining funds in such account may be used pursuant to this chapter and section 130.034.

7. Any committee which accepts or gives contributions other than those allowed shall be subject to a surcharge of one thousand dollars plus an amount equal to the contribution per nonallowable contribution, to be paid to the ethics commission and which shall be transferred to the director of revenue, upon notification of such nonallowable contribution by the ethics commission, and after the candidate has had ten business days after receipt of notice to return the contribution to the contributor. The candidate and the candidate committee treasurer or deputy treasurer owing a surcharge shall be personally liable for the payment of the surcharge or may pay such surcharge only from campaign funds existing on the date of the receipt of notice. Such surcharge shall constitute a debt to the state enforceable under, but not limited to, the provisions of chapter 143, RSMo.] **Monetary contributions shall not be made from any political party committee as defined in subdivision (25) of section 130.011 to any candidate committee, continuing committee, or political party committee. Nothing in this section shall be construed to limit any candidate committee from making contributions to any other committee.**

2. Any candidate for the office of state representative, the office of state senator, or a statewide elected office shall not accept any contributions from the first Wednesday after the first Monday in January through the first Friday after the second Monday of May of each year at 6:00 p.m. Only candidates for special election to the house of representatives, senate, or statewide elected office may, during such time, accept contributions from the date of the candidate's nomination by his or her respective political party until thirty days after the date of the election.

130.042. POSTING OF EXPENDITURES SUPPORTING AND OPPOSING CANDIDATES. — The Missouri ethics commission shall post on its website in an easily accessible and conspicuous manner, a listing organized by candidate showing all expenditures required to be disclosed by sections 130.041 and 130.050, made in support of and against each candidate, together

with the date and amount of each expenditure. The commission shall post each expenditure within seven days of notification of the expenditure. The list underlying each candidate shall be further organized into the following two categories:

- (1) Expenditures in support of the candidate; and
- (2) Expenditures in opposition to the candidate.

130.046. TIMES FOR FILING OF DISCLOSURE — PERIODS COVERED BY REPORTS — CERTAIN DISCLOSURE REPORTS NOT REQUIRED — SUPPLEMENTAL REPORTS, WHEN — CERTAIN DISCLOSURE REPORTS FILED ELECTRONICALLY — RULEMAKING AUTHORITY. —

1. The disclosure reports required by section 130.041 for all committees shall be filed at the following times and for the following periods:

(1) Not later than the eighth day before an election for the period closing on the twelfth day before the election if the committee has made any contribution or expenditure either in support or opposition to any candidate or ballot measure;

(2) Not later than the thirtieth day after an election for a period closing on the twenty-fifth day after the election, if the committee has made any contribution or expenditure either in support of or opposition to any candidate or ballot measure; except that, a successful candidate who takes office prior to the twenty-fifth day after the election shall have complied with the report requirement of this subdivision if a disclosure report is filed by such candidate and any candidate committee under the candidate's control before such candidate takes office, and such report shall be for the period closing on the day before taking office; and

(3) Not later than the fifteenth day following the close of each calendar quarter.

Notwithstanding the provisions of this subsection, if any committee accepts contributions or makes expenditures in support of or in opposition to a ballot measure or a candidate, and the report required by this subsection for the most recent calendar quarter is filed prior to the fortieth day before the election on the measure or candidate, the committee shall file an additional disclosure report not later than the fortieth day before the election for the period closing on the forty-fifth day before the election.

2. In the case of a ballot measure to be qualified to be on the ballot by initiative petition or referendum petition, or a recall petition seeking to remove an incumbent from office, disclosure reports relating to the time for filing such petitions shall be made as follows:

(1) In addition to the disclosure reports required to be filed pursuant to subsection 1 of this section the treasurer of a committee, other than a continuing committee, supporting or opposing a petition effort to qualify a measure to appear on the ballot or to remove an incumbent from office shall file an initial disclosure report fifteen days after the committee begins the process of raising or spending money. After such initial report, the committee shall file quarterly disclosure reports as required by subdivision (3) of subsection 1 of this section until such time as the reports required by subdivisions (1) and (2) of subsection 1 of this section are to be filed. In addition the committee shall file a second disclosure report no later than the fifteenth day after the deadline date for submitting such petition. The period covered in the initial report shall begin on the day the committee first accepted contributions or made expenditures to support or oppose the petition effort for qualification of the measure and shall close on the fifth day prior to the date of the report;

(2) If the measure has qualified to be on the ballot in an election and if a committee subject to the requirements of subdivision (1) of this subsection is also required to file a preelection disclosure report for such election any time within thirty days after the date on which disclosure reports are required to be filed in accordance with subdivision (1) of this subsection, the treasurer of such committee shall not be required to file the report required by subdivision (1) of this subsection, but shall include in the committee's preelection report all information which would otherwise have been required by subdivision (1) of this subsection.

3. The candidate, if applicable, treasurer or deputy treasurer of a committee shall file disclosure reports pursuant to this section, except for any calendar quarter in which the

contributions received by the committee or the expenditures or contributions made by the committee do not exceed five hundred dollars. The reporting dates and periods covered for such quarterly reports shall not be later than the fifteenth day of January, April, July and October for periods closing on the thirty-first day of December, the thirty-first day of March, the thirtieth day of June and the thirtieth day of September. No candidate, treasurer or deputy treasurer shall be required to file the quarterly disclosure report required not later than the fifteenth day of any January immediately following a November election, provided that such candidate, treasurer or deputy treasurer shall file the information required on such quarterly report on the quarterly report to be filed not later than the fifteenth day of April immediately following such November election. Each report by such committee shall be cumulative from the date of the last report. In the case of the continuing committee's first report, the report shall be cumulative from the date of the continuing committee's organization. Every candidate, treasurer or deputy treasurer shall file, at a minimum, the campaign disclosure reports covering the quarter immediately preceding the date of the election and those required by subdivisions (1) and (2) of subsection 1 of this section. A continuing committee shall submit additional reports if it makes aggregate expenditures, other than contributions to a committee, of five hundred dollars or more, within the reporting period at the following times for the following periods:

(1) Not later than the eighth day before an election for the period closing on the twelfth day before the election;

(2) Not later than [forty-eight] **twenty-four** hours after aggregate expenditures of [five] **two** hundred **fifty** dollars or more are made after the twelfth day before the election; and

(3) Not later than the thirtieth day after an election for a period closing on the twenty-fifth day after the election.

4. The reports required to be filed no later than the thirtieth day after an election and any subsequently required report shall be cumulative so as to reflect the total receipts and disbursements of the reporting committee for the entire election campaign in question. The period covered by each disclosure report shall begin on the day after the closing date of the most recent disclosure report filed and end on the closing date for the period covered. If the committee has not previously filed a disclosure report, the period covered begins on the date the committee was formed; except that in the case of a candidate committee, the period covered begins on the date the candidate became a candidate according to the definition of the term candidate in section 130.011.

5. Notwithstanding any other provisions of this chapter to the contrary:

(1) Certain disclosure reports pertaining to any candidate who receives nomination in a primary election and thereby seeks election in the immediately succeeding general election shall not be required in the following cases:

(a) If there are less than fifty days between a primary election and the immediately succeeding general election, the disclosure report required to be filed quarterly; provided that, any other report required to be filed prior to the primary election and all other reports required to be filed not later than the eighth day before the general election are filed no later than the final dates for filing such reports;

(b) If there are less than eighty-five days between a primary election and the immediately succeeding general election, the disclosure report required to be filed not later than the thirtieth day after the primary election need not be filed; provided that any report required to be filed prior to the primary election and any other report required to be filed prior to the general election are filed no later than the final dates for filing such reports; and

(2) No disclosure report needs to be filed for any reporting period if during that reporting period the committee has neither received contributions aggregating more than five hundred dollars nor made expenditure aggregating more than five hundred dollars and has not received contributions aggregating more than three hundred dollars from any single contributor and if the committee's treasurer files a statement with the appropriate officer that the committee has not exceeded the identified thresholds in the reporting period. Any contributions received or

expenditures made which are not reported because this statement is filed in lieu of a disclosure report shall be included in the next disclosure report filed by the committee. This statement shall not be filed in lieu of the report for two or more consecutive disclosure periods if either the contributions received or expenditures made in the aggregate during those reporting periods exceed five hundred dollars. This statement shall not be filed, in lieu of the report, later than the thirtieth day after an election if that report would show a deficit of more than one thousand dollars.

6. (1) If the disclosure report required to be filed by a committee not later than the thirtieth day after an election shows a deficit of unpaid loans and other outstanding obligations in excess of five thousand dollars, semiannual supplemental disclosure reports shall be filed with the appropriate officer for each succeeding semiannual period until the deficit is reported in a disclosure report as being reduced to five thousand dollars or less; except that, a supplemental semiannual report shall not be required for any semiannual period which includes the closing date for the reporting period covered in any regular disclosure report which the committee is required to file in connection with an election. The reporting dates and periods covered for semiannual reports shall be not later than the fifteenth day of January and July for periods closing on the thirty-first day of December and the thirtieth day of June;

(2) Committees required to file reports pursuant to subsection 2 or 3 of this section which are not otherwise required to file disclosure reports for an election shall file semiannual reports as required by this subsection if their last required disclosure report shows a total of unpaid loans and other outstanding obligations in excess of five thousand dollars.

7. In the case of a committee which disbands and is required to file a termination statement pursuant to the provisions of section 130.021 with the appropriate officer not later than the tenth day after the committee was dissolved, the candidate, committee treasurer or deputy treasurer shall attach to the termination statement a complete disclosure report for the period closing on the date of dissolution. A committee shall not utilize the provisions of subsection 8 of section 130.021 or the provisions of this subsection to circumvent or otherwise avoid the reporting requirements of subsection 6 or 7 of this section.

8. Disclosure reports shall be filed with the appropriate officer not later than 5:00 p.m. prevailing local time of the day designated for the filing of the report and a report postmarked not later than midnight of the day previous to the day designated for filing the report shall be deemed to have been filed in a timely manner. The appropriate officer may establish a policy whereby disclosure reports may be filed by facsimile transmission.

9. **Each candidate for the office of state representative, state senator, and for statewide elected office shall file all disclosure reports described in section 130.041 electronically with the Missouri ethics commission. The Missouri ethics commission shall promulgate rules establishing the standard for electronic filings with the commission and shall propose such rules for the importation of files to the reporting program.**

10. **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.**

130.050. OUT-OF-STATE COMMITTEES, REPORTING, CONTENTS — LATE CONTRIBUTION OR LOAN, DEFINED. — 1. An out-of-state committee which, according to the provisions of subsection 10 of section 130.021, is not required to file a statement of organization and is not required to file the full disclosure reports required by section 130.041 shall file reports with the Missouri ethics commission according to the provisions of this subsection if the committee

makes contributions or expenditures in support of or in opposition to candidates or ballot measures in this state in any election covered by this chapter or makes contributions to any committee domiciled in this state. An initial report shall be filed on or within fourteen days prior to the date such out-of-state committee first makes a contribution or expenditure in this state, and thereafter reports shall be filed at the times and for the reporting periods prescribed in subsection 1 of section 130.046. Each report shall contain:

(1) The full name, address and domicile of the committee making the report and the name, residential and business addresses, domicile and telephone numbers of the committee's treasurer;

(2) The name and address of any entity such as a labor union, trade or business or professional association, club or other organization or any business entity with which the committee is affiliated;

(3) A statement of the total dollar amount of all funds received by the committee in the current calendar year and a statement of the total contributions in the same period from persons domiciled in this state and a list by name, address, date and amount of each Missouri resident who contributed an aggregate of more than two hundred dollars in the current calendar year;

(4) A list by name, address, date and amount regarding any contributor to the out-of-state committee, regardless of state of residency, who made a contribution during the reporting period which was restricted or designated in whole or in part for use in supporting or opposing a candidate, ballot measure or committee in this state or was restricted for use in this state at the committee's discretion, or a statement that no such contributions were received;

(5) A statement as to whether the committee is required to file reports with the Federal Election Commission, and a listing of agencies in other states with which the committee files reports, if any;

(6) A separate listing showing contributions made in support of or opposition to each candidate or ballot measure in this state, together with the date and amount of each contribution;

(7) A separate listing showing contributions made to any committee domiciled in this state with the date and amount of each contribution.

2. In the case of a political party committee's selection of an individual to be the party's nominee for public office in an election covered by this chapter, any individual who seeks such nomination and who is a candidate according to the definition of the term candidate in section 130.011 shall be required to comply with all requirements of this chapter; except that, for the purposes of this subsection, the reporting dates and reporting periods in section 130.046 shall not apply, and the first reporting date shall be no later than the fifteenth day after the date on which a nomination covered by this subsection was made and for the period beginning on the date the individual became a candidate, as the term candidate is defined in section 130.011, and closing on the tenth day after the date the nomination was made, with subsequent reports being made as closely as practicable to the times required in section 130.046.

3. The receipt of any late contribution or loan of more than two hundred fifty dollars by a candidate committee supporting a candidate for statewide office or by any other committee shall be reported to the appropriate officer no later than [forty-eight] **twenty-four** hours after receipt. For purposes of this subsection the term "late contribution or loan" means a contribution or loan received after the closing date of the last disclosure report required to be filed before an election but received prior to the date of the election itself. The disclosure report of a late contribution may be made by any written means of communication, setting forth the name and address of the contributor or lender and the amount of the contribution or loan and need not contain the signatures and certification required for a full disclosure report described in section 130.041. A late contribution or loan shall be included in subsequent disclosure reports without regard to any special reports filed pursuant to this subsection.

130.054. COMPLAINT, FILING PROCEDURE, WHEN — ETHICS COMMISSION TO INVESTIGATE, PROCEDURE — LIMITATION ON ACCEPTING COMPLAINTS. — 1. Notwithstanding the provisions of subsection 3 of section 105.957, RSMo, any natural person

may file a complaint with the Missouri ethics commission alleging failure to timely or accurately file a personal financial disclosure statement, a campaign finance disclosure report or a violation of the provisions of this chapter by any candidate for elective office, within sixty days prior to the primary election at which such candidate is running for office, until after the general election. Any such complaint shall be in writing, shall state all facts known by the complainant which have given rise to the complaint, and shall be sworn to, under penalty of perjury, by the complainant.

2. Within the first business day after receipt of a complaint pursuant to this section, the executive director shall supply a copy of the complaint to the person or entity named in the complaint, deleting any material identifying the name of the complainant. The executive director shall notify the complainant and the person or entity named in the complaint of the date and time at which the commission shall audit and investigate the allegations contained in the complaint pursuant to subsection 3 of this section.

3. Within fifteen business days of receipt of a complaint pursuant to this section, the commission shall audit and investigate the allegations contained in the complaint and shall determine by a vote of at least four members of the commission that there are reasonable grounds to believe that a violation of law has occurred within the jurisdiction of the commission. The respondent may reply in writing or in person to the allegations contained in the complaint and may state justifications to dismiss the complaint. The complainant may also present evidence in support of the allegations contained in the complaint, but such evidence shall be limited in scope to the allegations contained in the original complaint, and such complaint may not be supplemented or otherwise enlarged in scope.

4. If, after audit and investigation of the complaint and upon a vote of at least four members of the commission, the commission determines that there are reasonable grounds to believe that a violation of law has occurred within the jurisdiction of the commission, the commission shall proceed with such complaint as provided by sections 105.957 to 105.963, RSMo. If the commission does not determine that there are reasonable grounds to believe that such a violation of law has occurred, the complaint shall be dismissed. If a complaint is dismissed, the fact that such complaint was dismissed, with a statement of the nature of the complaint, shall be made public within twenty-four hours of the commission's action.

5. Any complaint made pursuant to this section, and all proceedings and actions concerning such a complaint, shall be subject to the provisions of subsection 15 of section 105.961, RSMo.

6. No complaint shall be accepted by the commission within fifteen days prior to the primary or general election at which such candidate is running for office.

SECTION 1. STUDY AND REPORT ON POLITICAL TELEPHONE SOLICITATIONS. — The ethics commission shall study methods to improve the regulation of persons and organizations that conduct or utilize political telephone solicitations. The commission shall issue a report containing recommendations to the general assembly no later than January 1, 2007.

SECTION B. EFFECTIVE DATE. — Section A of this act shall become effective January 1, 2007.

Approved July 12, 2006

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Changes the laws regarding the use of eminent domain

AN ACT to repeal sections 99.120, 99.460, 100.420, 238.247, 353.130, 523.040, 523.055, 523.060, 523.200, and 523.205, RSMo, and to enact in lieu thereof twenty-eight new sections relating to eminent domain, with a severability clause.

SECTION

- A. Enacting clause.
- 99.120. Acquisition of property.
- 99.460. Power of eminent domain — procedure.
- 100.420. Authority may exercise power of eminent domain.
- 238.247. Condemnation, subject to commission or authority approval, ordinance of local governing body — procedures — relocation expenses to be paid, how.
- 353.130. Redevelopment corporation may acquire property.
- 523.001. Definitions.
- 523.039. Just compensation for condemned property, amount.
- 523.040. Appointment of commissioners — duties — notice of property viewing.
- 523.055. Possession of land delivered, when, notice — writ of possession, executed how.
- 523.060. Right of trial by jury in condemnation proceedings — jury responsibility in determining fair market value.
- 523.061. Determination of homestead taking and heritage value.
- 523.200. Definitions.
- 523.205. Relocation assistance given, when — definitions — relocation plans — contents — residential payments — business payments — advance payments — waiver — notice — report — ineligibility for tax abatement, when — additional requirements.
- 523.250. Notice of intended acquisition — mailing requirements.
- 523.253. Written offer, requirements — explanation of determination of property value.
- 523.256. Good faith negotiation required, findings, remedies.
- 523.259. Abandonment of condemnation, remedies — applicability.
- 523.261. Legislative determinations of areas to be condemned to be supported by substantial evidence, hearing, appeal.
- 523.262. Power of eminent domain limited, how — private entities to have power of eminent domain — notice.
- 523.265. Alternative locations for condemnation, procedure.
- 523.271. Exercise of eminent domain over private property for economic development purposes prohibited — definition.
- 523.274. Consideration of each parcel of property — time limit on commencement of eminent domain acquisitions.
- 523.277. Office of ombudsman for property rights.
- 523.282. Blanket easements void, when — definitions.
- 523.283. Easement or right-of-way by certain entities fixed by use — definition — commissioners appointed by court — attorneys' fees and costs for prevailing property owners.
 - 1. Declaration of farmland as blighted prohibited — definition.
 - 2. Deduction for gain from conversion of property through condemnation.
 - 3. Petition for vacation of abandoned easement.
- B. Severability clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 99.120, 99.460, 100.420, 238.247, 353.130, 523.040, 523.055, 523.060, 523.200, and 523.205, RSMo, are repealed and twenty-eight new sections enacted in lieu thereof, to be known as sections 99.120, 99.460, 100.420, 238.247, 353.130, 523.001, 523.039, 523.040, 523.055, 523.060, 523.061, 523.200, 523.205, 523.250, 523.253, 523.256, 523.259, 523.261, 523.262, 523.265, 523.271, 523.274, 523.277, 523.282, 523.283, 1, 2, and 3, to read as follows:

99.120. ACQUISITION OF PROPERTY. — An authority **whose board members are appointed by one or more elected officials** shall have the right to acquire by the exercise of the power of eminent domain any real property in fee simple or other estate which it may deem necessary for its purposes under sections 99.010 to 99.230 after the adoption by it of a resolution

declaring that the acquisition of the real property described therein is necessary for such purposes. An authority may exercise the power of eminent domain in the manner provided for corporations in chapter 523, RSMo[; or it may exercise the power of eminent domain in the manner provided by any other applicable statutory provision for the exercise of the power of eminent domain]. Property already devoted to a public use may be acquired in like manner, provided that no real property belonging to the city, the county, the state or any political subdivision thereof may be acquired without its consent.

99.460. POWER OF EMINENT DOMAIN — PROCEDURE. — 1. An authority **whose board members are appointed by one or more elected officials** shall have the right to acquire by the exercise of the power of eminent domain any real property which it may deem necessary for a land clearance project or for its purposes under this law after the adoption by it of a resolution declaring that the acquisition of the real property described therein is necessary for such purposes. An authority may exercise the power of eminent domain in the manner and under the procedure provided for corporations in [sections 523.010 to 523.070, inclusive, and 523.090 and 523.100] **chapter 523, RSMo**, and acts amendatory thereof or supplementary thereto[; or it may exercise the power of eminent domain in the manner now or which may be hereafter provided by any other statutory provision available to the community, and, as to an authority in a constitutional charter city in the manner provided in the charter of said city for the exercise of the power of eminent domain] .

2. Property already devoted to a public use may be acquired in like manner, provided that no real property belonging to the municipality, the county or the state may be acquired without its consent.

100.420. AUTHORITY MAY EXERCISE POWER OF EMINENT DOMAIN. — 1. An authority **whose board members are appointed by one or more elected officials** shall have the right to acquire by the exercise of the power of eminent domain any real property which it may deem necessary for a project or for its purposes under this law after the adoption by it of a resolution declaring that the acquisition of the real property described therein is necessary for such purposes. Any authority may exercise the power of eminent domain in the manner and under the procedure provided for corporations in [sections 523.010 to 523.070, inclusive, and 523.090 and 523.100] **chapter 523, RSMo**, and acts amendatory thereof or supplementary thereto[; or it may exercise the power of eminent domain in the manner now or which may be hereafter provided by any other statutory provision available to the city, and, as to an authority in a constitutional charter city, in the manner provided in the charter of said city for the exercise of the power of eminent domain] .

2. Property already devoted to a public use may be acquired in like manner; provided that no real property belonging to the municipality, the county or the state may be acquired without its consent.

238.247. CONDEMNATION, SUBJECT TO COMMISSION OR AUTHORITY APPROVAL, ORDINANCE OF LOCAL GOVERNING BODY — PROCEDURES — RELOCATION EXPENSES TO BE PAID, HOW. — 1. The district may condemn lands for a project in the name of the state of Missouri, upon prior approval by the commission, or the local transportation authority **and by ordinance of the local governing body** as appropriate, as to the necessity for the taking of the description of the parcel and the interest taken in that parcel.

2. If condemnation becomes necessary the district shall act under chapter 523, RSMo, and may condemn a fee simple or other interest in land.

3. The district may, after prior notice to the owner to enter upon private property, survey and determine the most advantageous route and design. The district shall be liable for all damages done to the property by such inspection.

4. Any person who involuntarily transfers any interest in land to a district which becomes insolvent and comes under the jurisdiction of a court may reacquire that property by paying to the district the total amount of the condemnation award for that parcel, plus statutory interest at the statutory rate from the date of taking on the amount of that award, if the project will not be completed by either the district, the commission or a local transportation authority.

5. Whenever a district undertakes any project which results in the acquisition of real property or in any person or persons being displaced from their homes, businesses, or farms, the district shall provide relocation assistance and make relocation payments to such displaced person and do such other acts and follow such procedures as would be necessary to comply with the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

353.130. REDEVELOPMENT CORPORATION MAY ACQUIRE PROPERTY. — 1. An urban redevelopment corporation may acquire real property or secure options in its own name or, in the name of nominees, it may acquire real property by gift, grant, lease, purchase, or otherwise.

2. An urban redevelopment corporation **operating pursuant to a redevelopment agreement with a municipality for a particular redevelopment area, which agreement was executed prior to or on December 31, 2006**, shall have the right to acquire by the exercise of the power of eminent domain any real property **in such redevelopment area** in fee simple or other estate which is necessary to accomplish the purpose of this chapter, under such conditions and only when so empowered by the legislative authority of the cities affected by this chapter.

3. An urban redevelopment corporation **operating pursuant to a redevelopment agreement with a municipality for a particular redevelopment area, which agreement was executed prior to or on December 31, 2006**, may exercise the power of eminent domain **in such redevelopment area** in the manner provided for corporations in chapter 523, RSMo; or it may exercise the power of eminent domain in the manner provided by any other applicable statutory provision for the exercise of the power of eminent domain. Property already devoted to a public use may be acquired in like manner, provided that no real property belonging to any city, county, or the state, or any political subdivision thereof may be acquired without its consent.

523.001. DEFINITIONS. — For the purposes of this chapter, the following terms shall mean:

(1) "Fair market value", the value of the property taken after considering comparable sales in the area, capitalization of income, and replacement cost less depreciation, singularly or in combination, as appropriate, and additionally considering the value of the property based upon its highest and best use, using generally accepted appraisal practices. If less than the entire property is taken, fair market value shall mean the difference between the fair market value of the entire property immediately prior to the taking and the fair market value of the remaining or burdened property immediately after the taking;

(2) "Heritage value", the value assigned to any real property, including but not limited to, real property owned by a business enterprise with fewer than one hundred employees, that has been owned within the same family for fifty or more years, such value to be fifty percent of fair market value;

(3) "Homestead taking", any taking of a dwelling owned by the property owner and functioning as the owner's primary place of residence or any taking of the owner's property within three hundred feet of the owner's primary place of residence that prevents the owner from utilizing the property in substantially the same manner as it is currently being utilized.

523.039. JUST COMPENSATION FOR CONDEMNED PROPERTY, AMOUNT. — In all condemnation proceedings filed after December 31, 2006, just compensation for

condemned property shall be determined under one of the three following subdivisions, whichever yields the highest compensation, as applicable to the particular type of property and taking:

- (1) An amount equivalent to the fair market value of such property;
- (2) For condemnations that result in a homestead taking, an amount equivalent to the fair market value of such property multiplied by one hundred twenty-five percent; or
- (3) For condemnations of property that result in any taking that prevents the owner from utilizing property in substantially the same manner as it was currently being utilized on the day of the taking and involving property owned within the same family for fifty or more years, an amount equivalent to the sum of the fair market value and heritage value. For the purposes of this subdivision, family ownership of property may be established through evidence of ownership by children, grandchildren, siblings, or nephews or nieces of the family member owning the property fifty years prior to the taking; and in addition, may be established through marriage or adoption by such family members. If any entity owns the real property, members of the family shall have an ownership interest in more than fifty percent of the entity in order to be within the family line of ownership for the purposes of this subdivision. The property owner shall have the burden of proving to the commissioners or jury that the property has been owned within the same family for fifty or more years.

523.040. APPOINTMENT OF COMMISSIONERS — DUTIES — NOTICE OF PROPERTY VIEWING. — 1. The court, or judge thereof in vacation, on being satisfied that due notice of the pendency of the petition has been given, shall appoint three disinterested commissioners, who shall be residents of the county in which the real estate or a part thereof is situated, to assess the damages which the owners may severally sustain by reason of such appropriation, who, **within forty-five days after appointment by the court, which forty-five days may be extended by the court to a date certain with good cause shown, after applying the definition of fair market value contained in subdivision (1) of section 523.001, and** after having viewed the property, shall return to the clerk of such court, under oath, their report in duplicate, of such assessment of damages, setting forth the amount of damages allowed to the person or persons named as owning or claiming the tract of land condemned, and should more than one tract be condemned in the petition, then the damages allowed to the owner, owners, claimant or claimants of each tract, respectively, shall be stated separately, together with a specific description of the tracts for which such damages are assessed; and the clerk shall file one copy of said report in his office and record the same in the order book of the court, and he shall deliver the other copy, duly certified by him, to the recorder of deeds of the county where the land lies (or to the recorder of deeds of the city of St. Louis, if the land lies in said city) who shall record the same in his office, and index each tract separately as provided in section 59.440, RSMo, and the fee for so recording shall be taxed by the clerk as costs in the proceedings; and thereupon such company shall pay to the clerk the amount thus assessed for the party in whose favor such damages have been assessed; and on making such payment it shall be lawful for such company to hold the interest in the property so appropriated for the uses prescribed in this section; and upon failure to pay the assessment, the court may, upon motion and notice by the party entitled to such damages, enforce the payment of the same by execution, unless the said company shall, within ten days from the return of such assessment, elect to abandon the proposed appropriation of any parcel of land, by an instrument in writing to that effect, to be filed with the clerk of the court, and entered on the minutes of the court, and as to so much as is thus abandoned, the assessment of damages shall be void.

2. Prior to the issuance of any report under subsection 1 of this section, a commissioner shall notify all parties named in the condemnation petition no less than ten days prior to the commissioners' viewing of the property of the named parties' opportunity to accompany the commissioners on the commissioners' viewing of the

property and of the named parties' opportunity to present information to the commissioners.

3. The commissioners shall view the property, hear arguments, and review other relevant information that may be offered by the parties.

523.055. POSSESSION OF LAND DELIVERED, WHEN, NOTICE — WRIT OF POSSESSION, EXECUTED HOW. — In any action to condemn lands under the power of eminent domain, where the condemnor has paid into the office of the clerk of the circuit court the amount of damages assessed by commissioners pursuant to law, the circuit clerk shall give the owners or those in possession written notice of such fact within five days. If the owners or those in possession do not deliver possession of the property condemned within ten days after the receipt of notice of the payment of the award, then on the request of the condemnor the court shall issue a writ of possession directing the sheriff to deliver the possession of such property to the condemnor forthwith; except that the court may upon the motion of [said] **the occupants or** owners grant them such extension of time, not to exceed ninety days, as the court finds to be reasonable under all the circumstances. **However, any displaced owner of a principal place of residence shall have one hundred days from the date of the award.** The writ of possession shall be executed in the manner provided by law for the execution of writs of possession in ejectment suits for the recovery of land. If a writ of possession is issued or a motion filed asking for an extension [by said owners], then all costs accrued in executing the writ and in the hearing of the motion may be assessed against the said owners.

523.060. RIGHT OF TRIAL BY JURY IN CONDEMNATION PROCEEDINGS — JURY RESPONSIBILITY IN DETERMINING FAIR MARKET VALUE. — 1. Any plaintiff or defendant, individual or corporate, shall have the right of trial by jury of twelve persons, if either party file exceptions to the award of commissioners in any condemnation case.

2. Such jury shall use the definition of fair market value provided for in subdivision (1) of section 523.001.

523.061. DETERMINATION OF HOMESTEAD TAKING AND HERITAGE VALUE. — After the filing of the commissioners' report pursuant to section 523.040, the circuit judge presiding over the condemnation proceeding shall apply the provisions of section 523.039 and shall determine whether a homestead taking has occurred and shall determine whether heritage value is payable and shall increase the commissioners' award to provide for the additional compensation due where a homestead taking occurs or where heritage value applies, in accordance with the just compensation provisions of section 523.039. If a jury trial of exceptions occurs under section 523.060, the circuit judge presiding over the condemnation proceeding shall apply the provisions of section 523.039 and shall determine whether a homestead taking has occurred and shall determine whether heritage value is payable and shall increase the jury verdict to provide for the additional compensation due where a homestead taking occurs or where heritage value applies, in accordance with the just compensation provisions of section 523.039.

523.200. DEFINITIONS. — As used in sections 523.200 to 523.215, the following words mean:

(1) "Displaced person", any person that moves from the real property or moves his personal property from the real property permanently and voluntarily as a direct result of the acquisition, rehabilitation or demolition of, or the written notice of intent to acquire such real property, in whole or in part, for a public purpose;

(2) "Public agency", the state of Missouri or any political subdivision or any branch, bureau or department thereof, **any public school district**, and any quasi-public corporation created or

existing by law which are authorized to acquire real property for public purpose and which acquire any such property either partly or wholly with aid or reimbursement from federal funds;

(3) "Urban redevelopment corporation", as defined in section 353.020, RSMo.

523.205. RELOCATION ASSISTANCE GIVEN, WHEN — DEFINITIONS — RELOCATION PLANS — CONTENTS — RESIDENTIAL PAYMENTS — BUSINESS PAYMENTS — ADVANCE PAYMENTS — WAIVER — NOTICE — REPORT — INELIGIBILITY FOR TAX ABATEMENT, WHEN—ADDITIONAL REQUIREMENTS. — 1. Any public agency as defined in section 523.200 which is required, as a condition to the receipt of federal funds[,] to give relocation assistance to any displaced person, is hereby authorized and directed to give similar relocation assistance to displaced persons when the property involved is being acquired for the same public purpose through the same procedures, and is being purchased solely through expenditure of state or local funds.

2. [The governing body of any city, or agency thereof, prior to approval of a plan, project or area for redevelopment under the operation of chapter 99, RSMo, chapter 100, RSMo, or chapter 353, RSMo,] **Any political subdivision, governmental entity, or corporation created under chapter 353, RSMo, initiating condemnation proceedings** which [proposes or includes within its provisions or necessitates] **may necessitate** displacement of persons, when such displacement is not subject to the provisions of the Federal Uniform Relocation and Real Property Acquisition Policies Act of 1970 (42 U.S.C. sections 4601 to 4655, as amended) or subsection 1 of this section, shall establish by ordinance or rule a relocation policy which shall include, but not be limited to, the provisions and requirements of subsections 2 to 15 of this section, or in lieu thereof, such relocation policy shall contain provisions and requirements which are equivalent to the requirements of the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. sections 4601 to 4655, as amended).

3. As used in this section, the following terms shall mean:

(1) "Business", any lawful activity that is conducted:

(a) Primarily for the purchase, sale or use of personal or real property or for the manufacture, processing or marketing of products or commodities; [or]

(b) Primarily for the sale of services to the public; **or**

(c) **On a not-for-profit basis by any organization that has obtained an exemption from the payment of federal income taxes as provided in section 501(c)(3) of Title 26, U.S.C., as amended, and veterans organizations;**

(2) "Decent, safe and sanitary dwelling", a dwelling which meets applicable housing and occupancy codes. The dwelling shall:

(a) Be structurally sound, weathertight and in good repair;

(b) Contain a safe electrical wiring system;

(c) Contain an adequate heating system;

(d) Be adequate in size with respect to the number of rooms needed to accommodate the displaced person; and

(e) For a handicapped person, be free of any barriers which would preclude reasonable ingress, egress or use of the dwelling;

(3) "Handicapped person", any person who is deaf, legally blind or orthopedically disabled to the extent that acquisition of another residence presents a greater burden than other persons would encounter or to the extent that modifications to the replacement residence would be necessary;

(4) ["Initiation of negotiations", the delivery of the initial written offer of just compensation by the acquiring entity, to the owner of the real property, to purchase such real property for the project, or the notice to the person that he will be displaced by rehabilitation or demolition;

(5) "Person", any individual, family, partnership, corporation, or association, **that has a legal right to occupy the property, including but not limited to, month-to-month tenants.**

4. Every urban redevelopment corporation acquiring property within a redevelopment area shall submit a relocation plan as part of the redevelopment plan.

5. Unless the property acquisition under the operation of chapter 99, RSMo, chapter 100, RSMo, or chapter 353, RSMo, is subject to federal relocation standards or subsection 1 of this section, the relocation plan shall provide for the following:

(1) Payments to all eligible displaced persons, as defined in **section 523.200**, who occupied the property to be acquired for not less than ninety days prior to the initiation of negotiations who are required to vacate the premises;

(2) A program for identifying special needs of displaced persons with specific consideration given to income, age, size of family, nature of business, availability of suitable replacement facilities and vacancy rates of affordable facilities;

(3) **A program for providing proper and timely notice to all displaced persons, including a general description of their potential rights and benefits if they are displaced, their eligibility for relocation assistance, and the nature of that assistance. The notices required for compliance with this section are as follows:**

(a) **A general information notice that shall be issued at the approval and selection of a designated redeveloper and shall inform residential and nonresidential owners and occupants of a potential project, including the potential acquisition of the property;**

(b) **A notice of relocation eligibility that shall be issued as soon as feasible after the execution of the redevelopment agreement and shall inform residential and nonresidential occupants within the project area who will be displaced of their relocation assistance and nature of that assistance, including ninety days advance notice of the date the occupants must vacate;**

(4) A program for referrals of displaced persons with provisions for a minimum of three decent, safe and sanitary housing referrals for residential persons or suitable referral sites for displaced businesses, a minimum of ninety days' notice of referral sites for [handicapped displaced persons and sixty days' notice of referral sites for] all [other] displaced persons prior to the date such displaced persons are required to vacate the premises, and arrangements for transportation to inspect referral sites; and

[(4)] (5) Every displaced person shall be given a ninety-day notice to vacate, prior to the date such displaced person is required to vacate the premises.

6. All displaced residential persons eligible for payments shall be provided with relocation payments based upon one of the following, at the option of the person:

(1) A [five-hundred-dollar] **one thousand dollar** fixed **moving expense** payment; or

(2) Actual reasonable costs of relocation including, **but not limited to**, actual moving costs, utility deposits, key deposits, storage of personal property up to one month, utility transfer and connection fees and other initial rehousing deposits including first and last month's rent and security deposit. **Such costs of relocation shall not include the cost of a replacement property or any capital improvements thereto.**

7. All displaced businesses eligible for payments shall be provided with relocation payments based upon the following, at the option of the business:

(1) A [one-thousand-five-hundred-dollar] **three thousand dollar** fixed **moving expense** payment **and up to an additional ten thousand dollars for reestablishment expenses. Reestablishment expenses are limited to costs incurred for physical improvements to the replacement property to accommodate the particular business at issue;** or

(2) Actual costs of moving including costs for packing, crating, disconnection, dismantling, reassembling and installing all personal equipment and costs for relettering similar signs and similar replacement stationery, **and up to an additional ten thousand dollars for reestablishment expenses. Reestablishment expenses are limited to actual costs incurred for physical improvements to the replacement property to accommodate the particular business at issue.**

8. If a displaced person demonstrates the need for an advance relocation payment, in order to avoid or reduce a hardship, the developer or public agency shall issue the payment subject to such safeguards as are appropriate to ensure that the objective of the payment is accomplished. Payment for a satisfactory claim shall be made within thirty days following receipt of sufficient documentation to support the claim. All claims for relocation payment shall be filed with the displacing agency within six months after:

- (1) For tenants, the date of displacement;
- (2) For owners, the date of displacement or the final payment for the acquisition of the real property, whichever is later.

9. Any displaced person, who is also the owner of the premises, may waive relocation payments as part of the negotiations for acquisition of the interest held by such person. Such waiver shall be in writing, shall disclose the person's knowledge of the provisions of this section and his entitlement to payment and shall be filed with the acquiring public agency. **However, any such waiver shall not include a waiver of any notice provisions of this section, and a displaced person shall remain entitled to all of the provisions regarding programs which are contained in subdivisions (2) and (3) of subsection 5 of this section.**

10. All persons eligible for relocation benefits shall be notified in writing of the availability of such relocation payments and assistance, with such notice to be given concurrently with the notice of referral sites as required in subdivision (3) of subsection 5 of this section.

11. Any urban redevelopment corporation, its assigns or transferees, which have been provided any assistance under the operation of chapter 99, RSMo, chapter 100, RSMo, chapter 353, RSMo, or this chapter, with land acquisition by the local governing body, shall be required to make a report to the local governing body or appropriate public agency which shall include, but not be limited to, the addresses of all occupied residential buildings and structures within the redevelopment area and the names and addresses of persons displaced by the redeveloper and specific relocation benefits provided to each person, as well as a sample notice provided to each person.

12. An urban redevelopment corporation which fails to comply with the relocation requirements provided in this section shall not be eligible for tax abatement as provided for in chapter 353, RSMo.

13. The requirements set out in this section shall be considered minimum standards. In reviewing any proposed relocation plan under the operation of chapter 99, RSMo, chapter 100, RSMo, or chapter 353, RSMo, the local governing body or public agency shall determine the adequacy of the proposal and may require additional elements to be provided.

14. Relocation assistance shall not be provided to any person who purposely resides or locates his business in a redevelopment area solely for the purpose of obtaining relocation benefits.

15. The provisions of sections 523.200 and 523.205 shall apply to land acquisitions under the operation of chapter 99, RSMo, chapter 100, RSMo, or chapter 353, RSMo, filed for approval, approved or amended on or after August 31, 1991, **and, as provided by subsection 2 of this section, any other land acquisition by a political subdivision or governmental entity through condemnation proceedings initiated after December 31, 2006.**

523.250. NOTICE OF INTENDED ACQUISITION — MAILING REQUIREMENTS. — 1. At least sixty days before filing of a condemnation petition seeking to acquire an interest in real property, the condemning authority shall provide the owner of record of such property with a written notice concerning the intended acquisition. Such notice shall include:

- (1) Identification of the interest in real property to be acquired and a statement of the legal description or commonly known location of the property;**
- (2) The purpose or purposes for which the property is to be acquired;**
- (3) A statement that the property owner has the right to:**

- (a) Seek legal counsel at the owner's expense;
- (b) Make a counteroffer and engage in further negotiations;
- (c) Obtain such owner's own appraisal of just compensation;
- (d) Have just compensation determined preliminarily by court-appointed condemnation commissioners and, ultimately, by a jury;
- (e) Seek assistance from the office of the ombudsman for property rights created under section 523.277;
- (f) Contest the right to condemn in the condemnation proceeding; and
- (g) Exercise the rights to request vacation of an easement under the procedures and circumstances provided for in section 3 of this act.

An owner may waive the requirements of this subsection prescribed above in a writing executed by the owner.

2. The written notice required by this section shall be deposited in the United States mail, certified or registered, and with postage prepaid, addressed to the owner of record as listed in the office of the city or county assessor for the city or county in which the property is located. The receipt issued to the condemning authority by the United States Post Office for certified or registered mail shall constitute proof of compliance with this notice requirement; provided, however, that nothing in this section shall preclude a condemning authority from proving compliance with this notice requirement by other competent evidence.

523.253. WRITTEN OFFER, REQUIREMENTS — EXPLANATION OF DETERMINATION OF PROPERTY VALUE. — 1. A condemning authority shall present a written offer to all owners of record of the property. The offer must be made at least thirty days before filing a condemnation petition and shall be held open for the thirty-day period unless an agreement is reached sooner. The offer shall be deposited in the United States mail, certified or registered, and with postage prepaid, addressed to the owner of record as listed in the office of the city or county assessor for the city or county in which the property is located. The receipt issued to the condemning authority by the United States Post Office for certified or registered mail shall constitute proof of compliance with this requirement; provided, however, that nothing in this section shall preclude a condemning authority from proving compliance with this requirement by other competent evidence. Nothing in this section shall prohibit the parties from negotiating during the thirty-day period.

2. (1) Any condemning authority shall, at the time of the offer, provide the property owner with an appraisal or an explanation with supporting financial data for its determination of the value of the property for purposes of the offer made in subsection 1 of this section.

(2) Any appraisal referred to in this section shall be made by a state-licensed or state-certified appraiser using generally accepted appraisal practices.

523.256. GOOD FAITH NEGOTIATION REQUIRED, FINDINGS, REMEDIES. — Before a court may enter an order of condemnation, the court shall find that the condemning authority engaged in good faith negotiations prior to filing the condemnation petition. A condemning authority shall be deemed to have engaged in good faith negotiations if:

- (1) It has properly and timely given all notices to owners required by this chapter;
- (2) Its offer under section 523.253 was no lower than the amount reflected in an appraisal performed by a state-licensed or state-certified appraiser for the condemning authority, provided an appraisal is given to the owner pursuant to subsection 2 of section 523.253 or, in other cases, the offer is no lower than the amount provided in the basis for its determination of the value of the property as provided to the owner under subsection 2 of section 523.253;

(3) The owner has been given an opportunity to obtain his or her own appraisal from a state-licensed or state-certified appraiser of his or her choice; and

(4) Where applicable, it has considered an alternate location suggested by the owner under section 523.265.

If the court does not find that good faith negotiations have occurred, the court shall dismiss the condemnation petition, without prejudice, and shall order the condemning authority to reimburse the owner for his or her actual reasonable attorneys' fees and costs incurred with respect to the condemnation proceeding which has been dismissed.

523.259. ABANDONMENT OF CONDEMNATION, REMEDIES — APPLICABILITY. — 1. If any condemning authority abandons a condemnation, each owner of interests sought to be condemned shall be entitled to recover:

(1) Their reasonable attorneys' fees, expert expenses and costs; and

(2) The lesser of:

(a) The owner's actual damages accruing as a direct and proximate result of the pendency of the condemnation if proven by the owner; or

(b) The damages required to be paid to an owner in the event of an abandonment under the terms of the applicable redevelopment plan or agreement.

In the event that the applicable redevelopment plan or agreement is silent as to damages required to be paid to an owner in the event of an abandonment, a court shall order the condemning authority to pay the owner's actual reasonable attorneys' fees and expenses, and shall award damages accruing as a direct and proximate result of the pendency of the condemnation if proven by the landowner.

2. The provisions of this section shall only apply to redevelopment plans or agreements entered into after December 31, 2006.

523.261. LEGISLATIVE DETERMINATIONS OF AREAS TO BE CONDEMNED TO BE SUPPORTED BY SUBSTANTIAL EVIDENCE, HEARING, APPEAL. — Solely with regard to condemnation actions pursuant to the authority granted by section 21, article VI, Constitution of Missouri and laws enacted pursuant thereto, any legislative determination that an area is blighted, substandard, or unsanitary shall not be arbitrary or capricious or induced by fraud, collusion, or bad faith and shall be supported by substantial evidence. A condemning authority or the affected property owner may seek a determination as to whether these standards have been met by a court of competent jurisdiction in any condemnation action filed to acquire the owner's property or in an action seeking a declaratory judgment. Upon the filing of such a declaratory judgment or when such a defense is raised in a condemnation proceeding, the circuit court shall give the case preference in the order of hearing to all other cases, except elections cases, to the extent necessary to conclude the case within thirty days of having been filed. Either party may thereafter file an interlocutory appeal of the circuit court's order upholding or rejecting the legislative body's determination. Any subsequent or interlocutory appeal to a higher court on the appeal of the legislative determination shall be given preference and concluded in an expedited manner similar to the manner set forth herein for a hearing in circuit court. An interlocutory appeal shall not stay proceedings in the court unless the court of appeals so orders.

523.262. POWER OF EMINENT DOMAIN LIMITED, HOW — PRIVATE ENTITIES TO HAVE POWER OF EMINENT DOMAIN — NOTICE. — 1. Except as set forth in subsection 2 of this section, the power of eminent domain shall only be vested in governmental bodies or agencies whose governing body is elected or whose governing body is appointed by elected officials or in an urban redevelopment corporation operating pursuant to a redevelopment

agreement with the municipality for a particular redevelopment area, which agreement was executed prior to or on December 31, 2006.

2. A private utility company, public utility, rural electric cooperative, municipally owned utility, pipeline, railroad or common carrier shall have the power of eminent domain as may be granted pursuant to the provisions of other sections of the revised statutes of Missouri. For the purposes of this section, the term "common carrier" shall not include motor carriers, contract carriers, or express companies. Where a condemnation by such an entity results in a displaced person, as defined in section 523.200, the provisions of subsections 3 and 6 to 10 of section 523.205 shall apply unless the condemning entity is subject to the relocation assistance provisions of the federal Uniform Relocation Assistance Act.

3. Any entity with the power of eminent domain and pursuing the acquisition of property for the purpose of constructing a power generation facility after December 31, 2006, after providing notice in a newspaper of general circulation in the county where the facility is to be constructed, shall conduct a public meeting disclosing the purpose of the proposed facility prior to making any offer to purchase property in pursuit thereof or, alternatively, shall provide the property owner with notification of the identity of the condemning authority and the proposed purpose for which the condemned property shall be used at the time of making the initial offer.

523.265. ALTERNATIVE LOCATIONS FOR CONDEMNATION, PROCEDURE. — With regard to property interests acquired by condemnation or negotiations in lieu of the exercise thereof, within thirty days of receiving a written notice sent under section 523.250, the landowner may propose to the condemning authority in writing an alternative location for the property to be condemned, which alternative location shall be on the same parcel of the landowner's property as the property the condemning authority seeks to condemn. The proposal shall describe the alternative location in such detail that the alternative location is clearly defined for the condemning authority. The condemning authority shall consider all such alternative locations. This section shall not apply to takings of an entire parcel of land. A written statement by the condemning authority to the landowner that it has considered all such alternative locations, and briefly stating why they were rejected or accepted, is conclusive evidence that sufficient consideration was given to the alternative locations.

523.271. EXERCISE OF EMINENT DOMAIN OVER PRIVATE PROPERTY FOR ECONOMIC DEVELOPMENT PURPOSES PROHIBITED — DEFINITION. — 1. No condemning authority shall acquire private property through the process of eminent domain for solely economic development purposes.

2. For the purposes of this section, "economic development" shall mean a use of a specific piece of property or properties which would provide an increase in the tax base, tax revenues, employment, and general economic health, and does not include the elimination of blighted, substandard, or unsanitary conditions, or conditions rendering the property or its surrounding area a conservation area as defined in section 99.805, RSMo.

523.274. CONSIDERATION OF EACH PARCEL OF PROPERTY — TIME LIMIT ON COMMENCEMENT OF EMINENT DOMAIN ACQUISITIONS. — 1. Where eminent domain authority is based upon a determination that a defined area is blighted, the condemning authority shall individually consider each parcel of property in the defined area with regard to whether the property meets the relevant statutory definition of blight. If the condemning authority finds a preponderance of the defined redevelopment area is blighted, it may proceed with condemnation of any parcels in such area.

2. No action to acquire property by eminent domain within a redevelopment area shall be commenced later than five years from the date of the legislative determination, by ordinance, or otherwise, that the property is blighted, substandard, contains unsanitary conditions, or is eligible for classification within a conservation area as defined in section 99.805, RSMo. However, such determination may be renewed for successive five-year periods by the legislative body.

523.277. OFFICE OF OMBUDSMAN FOR PROPERTY RIGHTS. — The office of public counsel shall create an office of ombudsman for property rights by appointing a person to the position of ombudsman. The ombudsman shall assist citizens by providing guidance, which shall not constitute legal advice, to individuals seeking information regarding the condemnation process and procedures. The ombudsman shall document the use of eminent domain within the state and any issues associated with its use and shall submit a report to the general assembly on January 1, 2008, and on such date each year thereafter.

523.282. BLANKET EASEMENTS VOID, WHEN — DEFINITIONS. — 1. Any blanket easement created after December 31, 2006, shall be void as against public policy and wholly unenforceable. For the purposes of this section, the term "blanket easement" shall mean an easement in real property acquired by condemnation or negotiations in lieu of the exercise thereof where the instrument or order of condemnation, by its terms, allows the easement holder to locate its facilities at an undefined location on, over, under, or across the burdened property.

2. Notwithstanding the provisions of subsection 1 of this section to the contrary, the term "blanket easement" shall not apply to any instrument containing language that upon completion of the initial structure explicitly fixes the burden, scope of use, and footprint within the express terms of the instrument and also contains an express statement that the location of the burden shall be fixed to the degree occupied by the initial structure upon completion of such structure. Nothing in this section shall prohibit the expansion or upgrade of the initially completed structure provided that the purpose or purposes and footprint of said expansion or upgrade were explicitly described in the original terms of the instrument.

523.283. EASEMENT OR RIGHT-OF-WAY BY CERTAIN ENTITIES FIXED BY USE — DEFINITION — COMMISSIONERS APPOINTED BY COURT — ATTORNEYS' FEES AND COSTS FOR PREVAILING PROPERTY OWNERS. — 1. Easements or right-of-way interests acquired after August 28, 2006, by a private utility company, public utility, rural electric cooperative, municipally owned utility, pipeline, or railroad, by either formal condemnation proceedings or by negotiations in lieu of condemnation proceedings, are fixed and determined by the particular use for which the property was acquired as described in either the instrument of conveyance or in the condemnation petition. Expanded use of the property beyond that which is described in the instrument of conveyance or the condemnation petition shall require either an additional condemnation proceeding in order to acquire the additional rights or by new negotiations for the expanded use of the property and appropriate consideration and damages to the current owner of the property for the expanded use.

2. For purposes of this section, the term "expanded use" shall mean:

(1) The exclusion of use by the current owner of the burdened property from an area greater than the area originally described at the time of acquisition by the condemning authority; or

(2) An increased footprint or burden greater than the footprint or burden originally described in the instrument of conveyance or condemnation petition. As used in this

subdivision, the term "increased footprint or burden" shall mean a different type of use or a use presenting an unreasonably burdensome impact on the property, the landowner, or the activities being conducted on the property by the landowner.

3. Commissioners appointed by the court under section 523.040 and, where applicable, a jury on a trial of exceptions from the commissioners' award, shall be entitled to assume, in assessing the just compensation due for a taking, that the condemning authority shall exercise, from and after the date the property interest is acquired, each and every right acquired to the fullest extent allowed by the condemnation petition.

4. If a property owner prevails in an action for trespass or expanded use against a private utility company, public utility, rural electric cooperative, municipally owned utility, pipeline, or railroad, such property owner may be awarded reasonable attorneys' fees, costs, and expenses.

SECTION 1. DECLARATION OF FARMLAND AS BLIGHTED PROHIBITED — DEFINITION.

— 1. No condemning authority shall declare farmland blighted for the purposes of exercising eminent domain.

2. For the purposes of this section only, the term "farmland" shall mean all real property classified as forest cropland or all real property used for agricultural purposes and devoted primarily to the raising and harvesting of crops; to the feeding, breeding, and management of livestock which shall include breeding and boarding of horses; to dairy operations, or to any combination thereof; and buildings and structures customarily associated with farming, agricultural, and horticultural uses. "Farmland" shall also include land devoted to and qualifying for payments or other compensation under a soil conservation or agricultural assistance program under an agreement with an agency of the federal government.

SECTION 2. DEDUCTION FOR GAIN FROM CONVERSION OF PROPERTY THROUGH CONDEMNATION. — In addition to the modifications to a taxpayer's federal adjusted gross income in section 143.121, RSMo, to calculate Missouri adjusted gross income there shall be subtracted from the taxpayer's federal adjusted gross income any gain recognized pursuant to section 1033 of the Internal Revenue Code of 1986, as amended, arising from compulsory or involuntary conversion of property as a result of condemnation or the imminence thereof.

SECTION 3. PETITION FOR VACATION OF ABANDONED ACCOUNT. — A property owner of land burdened by an easement created after December 31, 2006, abandoned in whole for a period in excess of ten years, may petition a court of competent jurisdiction to obtain the rights previously transferred and vacation of the easement for monetary consideration equal to the original consideration obtained by the property owner in exchange for the easement. The holder of the easement shall be a party to such action. The holder of any such easement shall be allowed to maintain the easement upon a showing that the holder, in good faith, plans to make future use of the easement. The right to request that an easement be vacated may be waived by the property owner of record from whom the easement was originally acquired or by such property owner's successor in title to the burdened property either in the original instrument of conveyance or in a subsequent signed writing.

SECTION B. SEVERABILITY CLAUSE. — Pursuant to section 1.140, RSMo, the provisions of this act are severable. If any provision of this act is declared invalid or unconstitutional, it is

the intent of the legislature at the remaining portions of this act shall remain and be in full force and effect.

Approved July 13, 2006

SB 558 [SB 558]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Removes the termination date for experimental tariffs put in place by the Public Service Commission and gas corporations for schools

AN ACT to repeal section 393.310, RSMo, and to enact in lieu thereof one new section relating to experimental tariffs of gas corporations.

SECTION

A. Enacting clause.

393.310. Certain gas corporations to file set of experimental tariffs with PSC, minimum requirements — extension of tariffs.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 393.310, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 393.310, to read as follows:

393.310. CERTAIN GAS CORPORATIONS TO FILE SET OF EXPERIMENTAL TARIFFS WITH PSC, MINIMUM REQUIREMENTS — EXTENSION OF TARIFFS. — 1. This section shall only apply to gas corporations as defined in section 386.020, RSMo. This section shall not affect any existing laws and shall only apply to the program established pursuant to this section.

2. As used in this section, the following terms mean:

(1) "Aggregate", the combination of natural gas supply and transportation services, including storage, requirements of eligible school entities served through a Missouri gas corporation's delivery system;

(2) "Commission", the Missouri public service commission; and

(3) "Eligible school entity" shall include any seven-director, urban or metropolitan school district as defined pursuant to section 160.011, RSMo, and shall also include, one year after July 11, 2002, and thereafter, any school for elementary or secondary education situated in this state, whether a charter, private, or parochial school or school district.

3. Each Missouri gas corporation shall file with the commission, by August 1, 2002, a set of experimental tariffs applicable the first year to public school districts and applicable to all school districts, whether charter, private, public, or parochial, thereafter.

4. The tariffs required pursuant to subsection 3 of this section shall, at a minimum:

(1) Provide for the aggregate purchasing of natural gas supplies and pipeline transportation services on behalf of eligible school entities in accordance with aggregate purchasing contracts negotiated by and through a not-for-profit school association;

(2) Provide for the resale of such natural gas supplies, including related transportation service costs, to the eligible school entities at the gas corporation's cost of purchasing of such gas supplies and transportation, plus all applicable distribution costs, plus an aggregation and balancing fee to be determined by the commission, not to exceed four-tenths of one cent per therm delivered during the first year; and

(3) Not require telemetry or special metering, except for individual school meters over one hundred thousand therms annually.

5. The commission may suspend the tariff as required pursuant to subsection 3 of this section for a period ending no later than November 1, 2002, and shall approve such tariffs upon finding that implementation of the aggregation program set forth in such tariffs will not have any negative financial impact on the gas corporation, its other customers or local taxing authorities, and that the aggregation charge is sufficient to generate revenue at least equal to all incremental

costs caused by the experimental aggregation program. Except as may be mutually agreed by the gas corporation and eligible school entities and approved by the commission, such tariffs shall not require eligible school entities to be responsible for pipeline capacity charges for longer than is required by the gas corporation's tariff for large industrial or commercial basic transportation customers.

6. The commission shall treat the gas corporation's pipeline capacity costs for associated eligible school entities in the same manner as for large industrial or commercial basic transportation customers, which shall not be considered a negative financial impact on the gas corporation, its other customers, or local taxing authorities, and the commission may adopt by order such other procedures not inconsistent with this section which the commission determines are reasonable or necessary to administer the experimental program.

7. [This section shall terminate June 30, 2007.]

8.] Tariffs in effect as of August 28, [2004] **2005**, shall be extended until [the termination date set in subsection 7 of this section] **terminated by the commission**.

Approved June 9, 2006

SB 559 [SB 559]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Considers any municipality, governmental unit, or public corporation created under the laws of any state or the United States a person

AN ACT to repeal section 393.705, RSMo, and to enact in lieu thereof one new section relating to joint municipal utility commissions.

SECTION

A. Enacting clause.

393.705. Definitions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 393.705, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 393.705, to read as follows:

393.705. DEFINITIONS. — As used in sections 393.700 to 393.770, the following terms shall, unless the context clearly indicates otherwise, have the following meanings:

(1) "Bond" or "bonds", any bonds, interim certificates, notes, debentures or other obligations of a commission issued pursuant to sections 393.700 to 393.770;

(2) "Commission", any joint municipal utility commission established by a joint contract pursuant to sections 393.700 to 393.770;

(3) "Contracting municipality", each municipality which is a party to a joint contract establishing a commission pursuant to sections 393.700 to 393.770, a water supply district formed pursuant to the provisions of chapter 247, RSMo, or a sewer district formed pursuant to the provisions of chapter 204, RSMo, or chapter 249, RSMo;

(4) "Joint contract", the contract entered into among or by and between two or more of the following contracting entities for the purpose of establishing a commission:

(a) Municipalities;

(b) Public water supply districts;

- (c) Sewer districts;
- (d) Nonprofit water companies; or
- (e) Nonprofit sewer companies;
- (5) "Participating municipality", a municipality, public water supply district, or sewer district acting in concert with a commission in the development of a project but providing separate financing to acquire an individual interest in the project;
- (6) "Person", a natural person, cooperative or private corporation, association, firm, partnership, or business trust of any nature whatsoever, organized and existing pursuant to the laws of any state or of the United States and any municipality or other municipal corporation, governmental unit, or public corporation created under the laws of [this] **any** state or the United States, and any person, board, or other body declared by the laws of any state or the United States to be a department, agency or instrumentality thereof;
- (7) "Project", the purchasing, construction, extending or improving of any utility facility or property including without limitation revenue-producing water, sewage, gas or electric light works, heating or power plants, transmission and distribution systems, and all other types of utilities and revenue-producing facilities as deemed appropriate by the governing bodies of the contracting or participating municipalities, including all real and personal property of any nature whatsoever to be used in connection therewith, together with all parts thereof and appurtenances thereto, or any interest therein or right to capacity thereof and the acquisition of fuel of any kind for any such purposes.

Approved June 9, 2006

SB 561 [SB 561]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Limits the amount of revenue expenditures from gaming boat admission fees

AN ACT to repeal section 313.820, RSMo, and to enact in lieu thereof one new section relating to excursion gambling boat admission fee revenue.

SECTION

- A. Enacting clause.
- 313.820. Admission fee, amount, division of — licensees subject to all other taxes, collection of nongaming taxes by department of revenue — cap on amount to be collected.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 313.820, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 313.820, to read as follows:

313.820. ADMISSION FEE, AMOUNT, DIVISION OF — LICENSEES SUBJECT TO ALL OTHER TAXES, COLLECTION OF NONGAMING TAXES BY DEPARTMENT OF REVENUE — CAP ON AMOUNT TO BE COLLECTED. — 1. An excursion boat licensee shall pay to the commission an admission fee of two dollars for each person embarking on an excursion gambling boat with a ticket of admission. One dollar of such fee shall be deposited to the credit of the gaming commission fund as authorized pursuant to section 313.835, and one dollar of such fee shall not be considered state funds and shall be paid to the home dock city or county. Subject to appropriation, one cent of such fee deposited to the credit of the gaming commission fund may

be deposited to the credit of the compulsive gamblers fund created pursuant to the provisions of section 313.842. Nothing in this section shall preclude any licensee from charging any amount deemed necessary for a ticket of admission to any person embarking on an excursion gambling boat. If tickets are issued which are good for more than one excursion, the admission fee shall be paid to the commission for each person using the ticket on each excursion that the ticket is used. If free passes or complimentary admission tickets are issued, the excursion boat licensee shall pay to the commission the same fee upon these passes or complimentary tickets as if they were sold at the regular and usual admission rate; however, the excursion boat licensee may issue fee-free passes to actual and necessary officials and employees of the licensee or other persons actually working on the excursion gambling boat. The issuance of fee-free passes is subject to the rules of the commission, and a list of all persons to whom the fee-free passes are issued shall be filed with the commission.

2. All licensees are subject to all income taxes, sales taxes, earnings taxes, use taxes, property taxes or any other tax or fee now or hereafter lawfully levied by any political subdivision; however, no other license tax, permit tax, occupation tax, excursion fee, or taxes or fees shall be imposed, levied or assessed exclusively upon licensees by a political subdivision. All state taxes not connected directly to gambling games shall be collected by the department of revenue. Notwithstanding the provisions of section 32.057, RSMo, to the contrary, the department of revenue may furnish and the commission may receive tax information to determine if applicants or licensees are complying with the tax laws of this state; however, any tax information acquired by the commission shall not become public record and shall be used exclusively for commission business.

3. Effective fiscal year 2008 and each fiscal year thereafter, the amount of [revenue] **expenditures from funds** derived from admission fees paid to a home dock city or county, **located in a home rule city with more than sixty thousand three hundred but fewer than sixty thousand four hundred inhabitants or in a county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants**, shall not exceed the [percentage of gross revenue realized] **revenue received** by the home dock city or county [attributable to such] **from** admission fees for fiscal year 2007. In the case of a new [casino] **excursion gambling boat located in a home rule city with more than sixty thousand three hundred but fewer than sixty thousand four hundred inhabitants or in a county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants**, the provisions of this section shall become effective two years from the opening of such [casino] **excursion gambling boat** and the amount of [revenue] **expenditures from funds** derived from admission fees paid to a home dock city or county shall not exceed the average [percentage of gross] revenue [realized] **received** by the home dock city or county [attributable to such] **from** admission fees for the first two fiscal years in which such [casino] **excursion gambling boat** opened for business. Effective fiscal year 2010 and each subsequent fiscal year until fiscal year 2015, the percentage of [all] revenue derived by a home dock city or county, **located in a home rule city with more than sixty thousand three hundred but fewer than sixty thousand four hundred inhabitants or in a county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants**, from such admission fees used for expenditures other than capital, cultural, and special law enforcement purpose expenditures shall be limited to not more than thirty percent. Effective fiscal year 2015 and each subsequent fiscal, the percentage of [all] revenue derived by a home dock city or county, **located in a home rule city with more than sixty thousand three hundred but fewer than sixty thousand four hundred inhabitants or in a county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants**, from such admission fees used for expenditures other than capital, cultural, and special law enforcement purpose expenditures shall be limited to not more than twenty percent.

4. After fiscal year 2007, in any fiscal year in which a home dock city or county, **located in a home rule city with more than sixty thousand three hundred but fewer than sixty thousand four hundred inhabitants or in a county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants**, collects an amount over the limitation on **expenditures of** revenue derived from admission fees provided in subsection [1] **3** of this section, such revenue shall be treated as if it were sales tax revenue within the meaning of section 67.505, RSMo, provided that the home dock city or county shall reduce its total general revenue property tax levy, in accordance with the method provided in subdivision (6) of subsection 3 of section 67.505, RSMo.

5. The provisions of subsections 3 and 4 of this section shall not affect the imposition or collection of a tax under section 313.822.

[6. The provisions of subsections 3 and 4 of this section shall not apply to any city of the third classification with more than eight thousand two hundred but fewer than eight thousand three hundred inhabitants, any county of the third classification without a township form of government and with more than sixteen thousand six hundred but fewer than sixteen thousand seven hundred inhabitants, any county of the third classification without a township form of government and with more than ten thousand two hundred but fewer than ten thousand three hundred inhabitants, any home rule city with more than four hundred thousand inhabitants and located in more than one county, any county of the first classification with more than one hundred eighty-four thousand but fewer than one hundred eighty-eight thousand inhabitants, any city of the fourth classification with more than two thousand nine hundred but fewer than three thousand inhabitants and located in any county of the first classification with more than seventy-three thousand seven hundred but fewer than seventy-three thousand eight hundred inhabitants, any county of the first classification with more than seventy-three thousand seven hundred but fewer than seventy-three thousand eight hundred inhabitants, any city of the third classification with more than six thousand seven hundred but fewer than six thousand eight hundred inhabitants and located in any county of the third classification without a township form of government and with more than twenty thousand but fewer than twenty thousand one hundred inhabitants, any county of the third classification without a township form of government and with more than twenty thousand but fewer than twenty thousand one hundred inhabitants, any city of the third classification with more than four thousand seven hundred but fewer than four thousand eight hundred inhabitants and located in any county of the first classification with more than one hundred eighty-four thousand but fewer than one hundred eighty-eight thousand inhabitants, any city of the third classification with more than twenty-five thousand seven hundred but fewer than twenty-five thousand nine hundred inhabitants, any county with a charter form of government and with more than one million inhabitants, any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants, any special charter city with more than nine hundred fifty but fewer than one thousand fifty inhabitants, any county of the third classification without a township form of government and with more than ten thousand four hundred but fewer than ten thousand five hundred inhabitants, any city not within a county, any home rule city with more than seventy-three thousand but fewer than seventy-five thousand inhabitants, and any county of the first classification with more than eighty-five thousand nine hundred but fewer than eighty-six thousand inhabitants.]

Approved June 9, 2006

SB 567 [HCS SCS SBs 567 & 792]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Provides health insurance coverage for Phase II clinical trials for cancer treatment

AN ACT to repeal sections 290.145, 376.421, 376.429, and 379.952, RSMo, and to enact in lieu thereof five new sections relating to health insurance coverage.

SECTION

- A. Enacting clause.
- 290.145. Discrimination, refusal to hire or discharge employee for alcohol or tobacco use not during working hours, prohibited, exception — not cause for legal actions.
- 376.392. Prescription drugs, one co-payment for dosage prescribed.
- 376.421. Group health insurance, authorized categories.
- 376.429. Coverage for certain clinical trials for prevention, early detection and treatment of cancer, restrictions — definitions — exclusions.
- 379.952. Carriers to market plan coverage — agent or broker, prohibited activities, exception — variance in compensation prohibited, exceptions — carriers, prohibited activities — denial of application, requirements — penalty — applicability to third party administrators.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 290.145, 376.421, 376.429, and 379.952, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 290.145, 376.392, 376.421, 376.429, and 379.952, to read as follows:

290.145. DISCRIMINATION, REFUSAL TO HIRE OR DISCHARGE EMPLOYEE FOR ALCOHOL OR TOBACCO USE NOT DURING WORKING HOURS, PROHIBITED, EXCEPTION — NOT CAUSE FOR LEGAL ACTIONS. — It shall be an improper employment practice for an employer to refuse to hire, or to discharge, any individual, or to otherwise disadvantage any individual, with respect to compensation, terms or conditions of employment because the individual uses lawful alcohol or tobacco products off the premises of the employer during hours such individual is not working for the employer, unless such use interferes with the duties and performance of the employee, the employee's coworkers, or the overall operation of the employer's business; except that, nothing in this section shall prohibit an employer from providing or contracting for health insurance benefits at a reduced premium rate **or at a reduced deductible level** for employees who do not smoke or use tobacco products. Religious organizations and church-operated institutions, and not-for-profit organizations whose principal business is health care promotion shall be exempt from the provisions of this section. The provisions of this section shall not be deemed to create a cause of action for injunctive relief, damages or other relief.

376.392. PRESCRIPTION DRUGS, ONE CO-PAYMENT FOR DOSAGE PRESCRIBED. — **For any health carrier or health benefit plan, as defined in section 376.1350, that provides prescription drug coverage, if a prescription drug covered by a health carrier or health benefit plan is prescribed in a single dosage amount for which the particular prescription drug is not manufactured in such single dosage amount and requires dispensing the particular prescription drug in a combination of different manufactured dosage amounts, the health carrier or health benefit plan shall only impose one co-payment for the dispensing of the combination of manufactured dosages that equal the prescribed dosage for such prescription drug. Such co-payment requirement shall not apply to prescriptions in excess of a one-month supply. If technology does not permit such adjudication, the health carrier or health benefit plan shall provide reimbursement forms for the patient.**

376.421. GROUP HEALTH INSURANCE, AUTHORIZED CATEGORIES. — 1. Except as provided in subsection 2 of this section, no policy of group health insurance shall be delivered in this state unless it conforms to one of the following descriptions:

- (1) A policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the
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employer for the benefit of persons other than the employer, subject to the following requirements:

(a) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietorships or partnerships, if the business of the employer and of such affiliated corporations, proprietorships or partnerships is under common control. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietorship or partnership. The policy may provide that the term "employees" shall include retired employees, former employees and directors of a corporate employer. A policy issued to insure the employees of a public body may provide that the term "employees" shall include elected or appointed officials;

(b) The premium for the policy shall be paid either from the employer's funds or from funds contributed by the insured employees, or from both. Except as provided in paragraph (c) of this subdivision, a policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, except those who reject such coverage in writing; and

(c) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer in a policy insuring fewer than ten employees and in a policy insuring ten or more employees if:

a. Application is not made within thirty-one days after the date of eligibility for insurance; or

b. The person voluntarily terminated the insurance while continuing to be eligible for insurance under the policy; or

c. After the expiration of an open enrollment period during which the person could have enrolled for the insurance or could have elected another level of benefits under the policy;

(2) A policy issued to a creditor or its parent holding company or to a trustee or trustees or agent designated by two or more creditors, which creditor, holding company, affiliate, trustee, trustees or agent shall be deemed the policyholder, to insure debtors of the creditor or creditors with respect to their indebtedness subject to the following requirements:

(a) The debtors eligible for insurance under the policy shall be all of the debtors of the creditor or creditors, or all of any class or classes thereof. The policy may provide that the term "debtors" shall include:

a. Borrowers of money or purchasers or lessees of goods, services, or property for which payment is arranged through a credit transaction;

b. The debtors of one or more subsidiary corporations; and

c. The debtors of one or more affiliated corporations, proprietorships or partnerships if the business of the policyholder and of such affiliated corporations, proprietorships or partnerships is under common control;

(b) The premium for the policy shall be paid either from the creditor's funds or from charges collected from the insured debtors, or from both. Except as provided in paragraph (c) of this subdivision, a policy on which no part of the premium is to be derived from funds contributed by insured debtors specifically for their insurance must insure all eligible debtors;

(c) An insurer may exclude any debtors as to whom evidence of individual insurability is not satisfactory to the insurer in a policy insuring fewer than ten debtors and in a policy insuring ten or more debtors if:

a. Application is not made within thirty-one days after the date of eligibility for insurance; or

b. The person voluntarily terminated the insurance while continuing to be eligible for insurance under the policy; or

c. After the expiration of an open enrollment period during which the person could have enrolled for the insurance or could have elected another level of benefits under the policy;

(d) The total amount of insurance payable with respect to an indebtedness shall not exceed the greater of the scheduled or actual amount of unpaid indebtedness to the creditor. The insurer may exclude any payments which are delinquent on the date the debtor becomes disabled as defined in the policy;

(e) The insurance may be payable to the creditor or to any successor to the right, title, and interest of the creditor. Such payment or payments shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of each such payment and any excess of insurance shall be payable to the insured or the estate of the insured;

(f) Notwithstanding the preceding provisions of this subdivision, insurance on agricultural credit transaction commitments may be written up to the amount of the loan commitment, and insurance on educational credit transaction commitments may be written up to the amount of the loan commitment less the amount of any repayments made on the loan;

(3) A policy issued to a labor union or similar employee organization, which shall be deemed to be the policyholder, to insure members of such union or organization for the benefit of persons other than the union or organization or any of its officials, representatives, or agents, subject to the following requirements:

(a) The members eligible for insurance under the policy shall be all of the members of the union or organization, or all of any class or classes thereof;

(b) The premium for the policy shall be paid either from funds of the union or organization or from funds contributed by the insured members specifically for their insurance, or from both. Except as provided in paragraph (c) of this subdivision, a policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, except those who reject such coverage in writing;

(c) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer in a policy insuring fewer than ten members and in a policy insuring ten or more members if:

a. Application is not made within thirty-one days after the date of eligibility for insurance; or

b. The person voluntarily terminated the insurance while continuing to be eligible for insurance under the policy; or

c. After the expiration of an open enrollment period during which the person could have enrolled for the insurance or could have elected another level of benefits under the policy;

(4) A policy issued to a trust, or to the trustee of a fund, established or adopted by two or more employers, or by one or more labor unions or similar employee organizations, or by one or more employers and one or more labor unions or similar employee organizations, which trust or trustee shall be deemed the policyholder, to insure employees of the employers or members of the unions or organizations for the benefit of persons other than the employers or the unions or organizations, subject to the following requirements:

(a) The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions or organizations, or all of any class or classes thereof. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietorships or partnerships if the business of the employer and of such affiliated corporations, proprietorships or partnerships is under common control. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietorship or partnership. The policy may provide that the term "employees" shall include retired employees, former employees and directors of a corporate employer. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship;

(b) The premium for the policy shall be paid from funds contributed by the employer or employers of the insured persons or by the union or unions or similar employee organizations, or by both, or from funds contributed by the insured persons or from both the insured persons and the employer or union or similar employee organization. Except as provided in paragraph (c) of this subdivision, a policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance, must insure all eligible persons except those who reject such coverage in writing;

(c) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer;

(5) A policy issued to an association or to a trust or to the trustees of a fund established, created and maintained for the benefit of members of one or more associations. The association or associations shall have at the outset a minimum of one hundred persons; shall have been organized and maintained in good faith for purposes other than that of obtaining insurance; shall have been in active existence for at least two years; shall have a constitution and bylaws which provide that the association or associations shall hold regular meetings not less than annually to further the purposes of the members; shall, except for credit unions, collect dues or solicit contributions from members; and shall provide the members with voting privileges and representation on the governing board and committees. The policy shall be subject to the following requirements:

(a) The policy may insure members of such association or associations, employees thereof, or employees of members, or one or more of the preceding, or all of any class or classes thereof for the benefit of persons other than the employee's employer;

(b) The premium for the policy shall be paid from funds contributed by the association or associations or by employer members, or by both, or from funds contributed by the covered persons or from both the covered persons and the association, associations, or employer members;

(c) Except as provided in paragraph (d) of this subdivision, a policy on which no part of the premium is to be derived from funds contributed by the covered persons specifically for their insurance must insure all eligible persons, except those who reject such coverage in writing;

(d) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer;

(6) A policy issued to a credit union or to a trustee or trustees or agent designated by two or more credit unions, which credit union, trustee, trustees or agent shall be deemed the policyholder, to insure members of such credit union or credit unions for the benefit of persons other than the credit union or credit unions, trustee or trustees, or agent or any of their officials, subject to the following requirements:

(a) The members eligible for insurance shall be all of the members of the credit union or credit unions, or all of any class or classes thereof;

(b) The premium for the policy shall be paid by the policyholder from the credit union's funds and, except as provided in paragraph (c) of this subdivision, must insure all eligible members;

(c) An insurer may exclude or limit the coverage on any member as to whom evidence of individual insurability is not satisfactory to the insurer;

(7) A policy issued to cover persons in a group where that group is specifically described by a law of this state as one which may be covered for group life insurance. The provisions of such law relating to eligibility and evidence of insurability shall apply.

2. Group health insurance offered to a resident of this state under a group health insurance policy issued to a group other than one described in subsection 1 of this section shall be subject to the following requirements:

(1) No such group health insurance policy shall be delivered in this state unless the director finds that:

(a) The issuance of such group policy is not contrary to the best interest of the public;

(b) The issuance of the group policy would result in economies of acquisition or administration; and

(c) The benefits are reasonable in relation to the premiums charged;

(2) No such group health insurance coverage may be offered in this state by an insurer under a policy issued in another state unless this state or another state having requirements substantially similar to those contained in subdivision (1) of this subsection has made a determination that such requirements have been met;

(3) The premium for the policy shall be paid either from the policyholder's funds, or from funds contributed by the covered persons, or from both;

(4) An insurer may exclude or limit the coverage on any person as to whom evidence of individual insurability is not satisfactory to the insurer.

3. As used in this section, "insurer" shall have the same meaning as the definition of "health carrier" under section 376.1350, and "class" means a predefined group of persons eligible for coverage under a group insurance policy where members of a class represent the same or essentially the same hazard; except that, an insurer may offer a policy to an employer that charges a reduced premium rate or deductible for employees who do not smoke or use tobacco products as authorized under section 290.145, RSMo, and such insurer shall not be considered to be in violation of any unfair trade practice, as defined in section 379.936, RSMo, even if only some employers elect to purchase such a policy and other employers do not.

376.429. COVERAGE FOR CERTAIN CLINICAL TRIALS FOR PREVENTION, EARLY DETECTION AND TREATMENT OF CANCER, RESTRICTIONS — DEFINITIONS — EXCLUSIONS.

— 1. All health benefit plans, as defined in section 376.1350, that are delivered, issued for delivery, continued or renewed on or after August 28, [2002] **2006**, and providing coverage to any resident of this state shall provide coverage for routine patient care costs as defined in subsection 6 of this section incurred as the result of phase **II**, **III**, or **IV** of a clinical trial that is approved by an entity listed in subsection 4 of this section and is undertaken for the purposes of the prevention, early detection, or treatment of cancer. **Health benefit plans may limit coverage for the routine patient care costs of patients in phase II of a clinical trial to those treating facilities within the health benefit plans' provider network; except that, this provision shall not be construed as relieving a health benefit plan of the sufficiency of network requirements under state statute.**

2. In the case of treatment under a clinical trial, the treating facility and personnel must have the expertise and training to provide the treatment and treat a sufficient volume of patients. There must be equal to or superior, noninvestigational treatment alternatives and the available clinical or preclinical data must provide a reasonable expectation that the treatment will be superior to the noninvestigational alternatives.

3. Coverage required by this section shall include coverage for routine patient care costs incurred for drugs and devices that have been approved for sale by the Food and Drug Administration (FDA), regardless of whether approved by the FDA for use in treating the patient's particular condition, including coverage for reasonable and medically necessary services needed to administer the drug or use the device under evaluation in the clinical trial.

4. Subsections 1 and 2 of this section requiring coverage for routine patient care costs shall apply to **phase III or IV** of clinical trials that are approved or funded by one of the following entities:

- (1) One of the National Institutes of Health (NIH);
 - (2) An NIH cooperative group or center as defined in subsection 6 of this section;
 - (3) The FDA in the form of an investigational new drug application;
 - (4) The federal Departments of Veterans' Affairs or Defense;
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(5) An institutional review board in this state that has an appropriate assurance approved by the Department of Health and Human Services assuring compliance with and implementation of regulations for the protection of human subjects (45 CFR 46); or

(6) A qualified research entity that meets the criteria for NIH Center support grant eligibility.

5. Subsections 1 and 2 of this section requiring coverage for routine patient care costs shall apply to phase II of clinical trials if:

(1) Phase II of a clinical trial is sanctioned by the National Institutes of Health (NIH) or National Cancer Institute (NCI) and conducted at academic or National Cancer Institute Center; and

(2) The person covered under this section is enrolled in the clinical trial. This section shall not apply to persons who are only following the protocol of phase II of a clinical trial, but not actually enrolled.

6. An entity seeking coverage for treatment, prevention, or early detection in a clinical trial approved by an institutional review board under subdivision (5) of subsection 4 of this section shall maintain and post electronically a list of the clinical trials meeting the requirements of subsections 2 and 3 of this section. This list shall include: the phase for which the clinical trial is approved; the entity approving the trial; the particular disease; and the number of participants in the trial. If the electronic posting is not practical, the entity seeking coverage shall periodically provide payers and providers in the state with a written list of trials providing the information required in this section.

[6.] 7. As used in this section, the following terms shall mean:

(1) "Cooperative group", a formal network of facilities that collaborate on research projects and have an established NIH-approved Peer Review Program operating within the group, including the NCI Clinical Cooperative Group and the NCI Community Clinical Oncology Program;

(2) "Multiple project assurance contract", a contract between an institution and the federal Department of Health and Human Services (DHHS) that defines the relationship of the institution to the DHHS and sets out the responsibilities of the institution and the procedures that will be used by the institution to protect human subjects;

(3) "Routine patient care costs" shall include coverage for reasonable and medically necessary services needed to administer the drug or device under evaluation in the clinical trial. Routine patient care costs include all items and services that are otherwise generally available to a qualified individual that are provided in the clinical trial except:

(a) The investigational item or service itself;

(b) Items and services provided solely to satisfy data collection and analysis needs and that are not used in the direct clinical management of the patient; and

(c) Items and services customarily provided by the research sponsors free of charge for any enrollee in the trial.

[7.] 8. For the purpose of this section, providers participating in clinical trials shall obtain a patient's informed consent for participation on the clinical trial in a manner that is consistent with current legal and ethical standards. Such documents shall be made available to the health insurer upon request.

[8.] 9. The provisions of this section shall not apply to a policy, plan or contract paid under Title XVIII or Title XIX of the Social Security Act.

[9.] 10. Nothing in this section shall apply to any accident-only policy, specified disease policy, hospital indemnity policy, Medicare supplement policy, long-term care policy, short-term major medical policy of six months or less duration, or other limited benefit health insurance policies.

11. The provisions of this section regarding phase II of a clinical trial shall not apply automatically to an individually underwritten health benefit plan, but shall be an option to any such plan.

379.952. CARRIERS TO MARKET PLAN COVERAGE — AGENT OR BROKER, PROHIBITED ACTIVITIES, EXCEPTION — VARIANCE IN COMPENSATION PROHIBITED, EXCEPTIONS — CARRIERS, PROHIBITED ACTIVITIES — DENIAL OF APPLICATION, REQUIREMENTS — PENALTY — APPLICABILITY TO THIRD PARTY ADMINISTRATORS. — 1. Each small employer carrier shall actively market health benefit plan coverage, including the basic and standard health benefit plans, to eligible small employers in the state. If a small employer carrier denies coverage to a small employer on the basis of the health status or claims experience of the small employer or its employees or dependents, the small employer carrier shall offer the small employer the opportunity to purchase a basic health benefit plan or a standard health benefit plan.

2. (1) Except as provided in subdivision (2) of this subsection, no small employer carrier or agent or broker shall, directly or indirectly, engage in the following activities:

(a) Encouraging or directing small employers to refrain from filing an application for coverage with the small employer carrier because of the health status, claims experience, industry, occupation or geographic location of the small employer;

(b) Encouraging or directing small employers to seek coverage from another carrier because of the health status, claims experience, industry, occupation or geographic location of the small employer.

(2) The provisions of subdivision (1) of this subsection shall not apply with respect to information provided by a small employer carrier or agent or broker to a small employer regarding the established geographic service area or a restricted network provision of a small employer carrier.

3. (1) Except as provided in subdivision (2) of this subsection, no small employer carrier shall, directly or indirectly, enter into any contract, agreement or arrangement with an agent or broker that provides for or results in the compensation paid to an agent or broker for the sale of a health benefit plan to be varied because of the health status, claims experience, industry, occupation or geographic location of the small employer.

(2) Subdivision (1) of this subsection shall not apply with respect to a compensation arrangement that provides compensation to an agent or broker on the basis of percentage of premium, provided that the percentage shall not vary because of the health status, claims experience, industry, occupation or geographic area of the small employer.

4. A small employer carrier shall provide reasonable compensation, as provided under the plan of operation of the program, to an agent or broker, if any, for the sale of a basic or standard health benefit plan.

5. No small employer carrier shall terminate, fail to renew or limit its contract or agreement of representation with an agent or broker for any reason related to the health status, claims experience, occupation, or geographic location of the small employers placed by the agent or broker with the small employer carrier.

6. No small employer carrier or producer shall induce or otherwise encourage a small employer to separate or otherwise exclude an employee from health coverage or benefits provided in connection with the employee's employment; **except that, a carrier may offer a policy to a small employer that charges a reduced premium rate or deductible for employees who do not smoke or use tobacco products, and such carrier shall not be considered in violation of sections 379.930 to 379.952 or any unfair trade practice, as defined in section 379.936, even if only some small employers elect to purchase such a policy and other small employers do not.**

7. Denial by a small employer carrier of an application for coverage from a small employer shall be in writing and shall state the reason or reasons for the denial with specificity.

8. The director may promulgate rules setting forth additional standards to provide for the fair marketing and broad availability of health benefit plans to small employers in this state.

9. (1) A violation of this section by a small employer carrier or a producer shall be an unfair trade practice under sections 375.930 to 375.949, RSMo.

(2) If a small employer carrier enters into a contract, agreement or other arrangement with a third-party administrator to provide administrative marketing or other services related to the offering of health benefit plans to small employers in this state, the third-party administrator shall be subject to this section as if it were a small employer carrier.

Approved July 6, 2006

SB 578 [SCS SB 578]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Prohibits protest activities during funeral services

AN ACT to amend chapter 578, RSMo, by adding thereto one new section relating to protest activities near funeral services, with penalty provisions and an emergency clause.

SECTION

- A. Enacting clause.
- 578.501. Funeral protests prohibited, when — citation of law — definitions.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 578, RSMo, is amended by adding thereto one new section, to be known as section 578.501, to read as follows:

578.501. FUNERAL PROTESTS PROHIBITED, WHEN — CITATION OF LAW — DEFINITIONS. — 1. This section shall be known as "Spc. Edward Lee Myers' Law".

2. It shall be unlawful for any person to engage in picketing or other protest activities in front of or about any church, cemetery, or funeral establishment, as defined by section 333.011, RSMo, within one hour prior to the commencement of any funeral, and until one hour following the cessation of any funeral. Each day on which a violation occurs shall constitute a separate offense. Violation of this section is a class B misdemeanor, unless committed by a person who has previously pled guilty to or been found guilty of a violation of this section, in which case the violation is a class A misdemeanor.

3. For the purposes of this section, "funeral" means the ceremonies, processions and memorial services held in connection with the burial or cremation of the dead.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to protect the emotional well-being of persons paying respects to the deceased, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved February 23, 2006

SB 580 [SCS SB 580]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires collaboration between certain departments in order to achieve a more efficient and effective educational system

AN ACT to amend chapter 160, RSMo, by adding thereto one new section relating to the creation of a more effective education system.

SECTION

A. Enacting clause.

160.730. Policy goals, meeting required to discuss ways to achieve — list of goals — report to general assembly and governor.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 160, RSMo, is amended by adding thereto one new section, to be known as section 160.730, to read as follows:

160.730. POLICY GOALS, MEETING REQUIRED TO DISCUSS WAYS TO ACHIEVE — LIST OF GOALS — REPORT TO GENERAL ASSEMBLY AND GOVERNOR. — 1. Not less than twice each calendar year, the commissioner of higher education, the chair of the coordinating board for higher education, the commissioner of education, the president of the state board of education, and the director of the department of economic development shall meet and discuss ways in which their respective departments may collaborate to achieve the policy goals as outlined in this section.

2. In order to create a more efficient and effective education system that more adequately prepares students for the challenges of entering the workforce, the persons and agencies outlined in subsection 1 of this section shall be responsible for accomplishing the following goals:

(1) Studying the potential for a state-coordinated economic/educational policy that addresses all levels of education;

(2) Determining where obstacles make state support of programs that cross institutional or jurisdictional boundaries difficult and suggesting remedies;

(3) Creating programs that:

(a) Intervene at known critical transition points, such as middle school to high school and the freshman year of college to help assure student success at the next level;

(b) Foster higher education faculty spending time in elementary and secondary classrooms and private workplaces, and elementary and secondary faculty spending time in general education-level higher education courses and private workplaces, with particular emphasis on secondary school faculty working with general education higher education faculty;

(c) Allow education stakeholders to collaborate with members of business and industry to foster policy alignment, professional interaction, and information systems across sectors;

(d) Regularly provide feedback to schools, colleges, and employers concerning the number of students requiring postsecondary remediation, whether in educational institutions or the workplace;

(4) Exploring ways to better align academic content, particularly between secondary school and first-year courses at public colleges and universities, which may include alignment between:

(a) Elementary and secondary assessments and public college and university admission and placement standards; and

(b) Articulation agreements of programs across sectors and educational levels;

3. No later than the first Wednesday after the first Monday of January each year, the persons outlined in subsection 1 of this section shall report jointly to the general assembly and to the governor the actions taken by their agencies and their recommendations for policy initiatives and legislative alterations to achieve the policy goals as outlined in this section.

Approved June 12, 2006

SB 583 [HCS SS#2 SCS SB 583]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Establishes a decentralized emission inspection program which utilizes on-board diagnostic testing on certain motor vehicles

AN ACT to repeal sections 33.080, 301.190, 301.800, 307.366, 643.300, 643.305, 643.310, 643.315, 643.320, 643.330, 643.335, and 643.350, RSMo, and to enact in lieu thereof fifteen new sections relating to the state emissions inspection program, with penalty provisions and an effective date for certain sections.

SECTION

A. Enacting clause.

- 33.080. Receipts deposited when, appropriated when — funds lapse when, exceptions, report — violation, a misdemeanor.
- 301.190. Certificate of ownership — application, contents — special requirements, certain vehicles — fees — failure to obtain within time limit, delinquency penalty — duration of certificate — unlawful to operate without certificate — certain vehicles brought into state in a wrecked or damaged condition or after being towed, inspection — certain vehicles previously registered in other states, designation — reconstructed motor vehicles, procedure.
- 301.800. Registration of solar powered vehicle — application — license plate — fees — inspections, operation.
- 307.367. Transfer of moneys to the Missouri air emission reduction fund, when, use of moneys, exemption from transfer, Missouri air pollution control fund abolished, when.
- 643.300. Citation of law — mandate of Congress.
- 643.303. Decentralized emissions program for inspections, when, program for inspecting certain motor vehicles, requirements — application for authorization to conduct emission inspections — repairs — certification to begin, when, report — remote sensing devices and gas cap tests authorized — program requirements, interagency agreements — rulemaking authority — promotion of program.
- 643.305. Commission to adopt state implementation plan, nonattainment areas, certain cities and counties — emission reductions established — department to establish air quality baseline — cost of reduction measures, determination — emissions inspection program, report, public information program.
- 643.310. Commission to establish decentralized motor vehicle emissions inspection program, certain cities and counties, exceptions — selection of person to operate inspection facility or program, procedure, contract requirement — selection of contractors, minorities, motor vehicle dealers — storage of conventional gasoline in nonattainment area.
- 643.315. Motor vehicles subject to program, when, evidence of inspection and approval — exceptions — reciprocity with other states — dealer inspection, return of motor vehicle for failing inspection, options, violation.
- 643.320. Criteria for operation of inspection stations, established — application, form, fee — department to inspect — suspension and revocation of license, procedure — required reports — alternative administrative enforcement mechanisms — sign, requirements, furnished by department, cost.
- 643.330. Vehicle failure on inspection, reinspection, charge — inspector to provide written estimate, cost of repairs — department to test facilities, violations.

- 643.335. Waiver amount established by commission, cost, limits — verification of repairs, procedure — waiver form, affidavit — amount, how calculated — waiver amount for repairs by owner, form — waiver amount for owners receiving public assistance.
- 643.337. Oversight of vehicle emissions inspection program — report — rulemaking authority.
- 643.350. Inspection fee — contractor to remit portion, deposit in Missouri air emission reduction fund, use of, balance not to lapse — moneys may be deposited into general revenue fund, when — supplementation of funds.
- 643.353. Annual report on effectiveness of emissions inspection program, requirements.
- 307.366. Motor vehicle emissions tested, when, mandated by Congress for nonattainment areas designated by governor — exempt vehicles — certificate — motor vehicle dealers may sell with or without inspection, procedure, penalty — fee — waiver — failure to pass, result — fund created, source, use and investment of funds — inspection stations, duties — highway patrol, duties — violation, penalty.
- B. Effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 33.080, 301.190, 301.800, 307.366, 643.300, 643.305, 643.310, 643.315, 643.320, 643.330, 643.335, and 643.350, RSMo, are repealed and fifteen new sections enacted in lieu thereof, to be known as sections 33.080, 301.190, 301.800, 307.367, 643.300, 643.303, 643.305, 643.310, 643.315, 643.320, 643.330, 643.335, 643.337, 643.350, and 643.353, to read as follows:

33.080. RECEIPTS DEPOSITED WHEN, APPROPRIATED WHEN — FUNDS LAPSE WHEN, EXCEPTIONS, REPORT — VIOLATION, A MISDEMEANOR. — [1.] All fees, funds and moneys from whatsoever source received by any department, board, bureau, commission, institution, official or agency of the state government by virtue of any law or rule or regulation made in accordance with any law, excluding all funds received and disbursed by the state on behalf of counties and cities, towns and villages shall, by the official authorized to receive same, and at stated intervals of not more than thirty days, be placed in the state treasury to the credit of the particular purpose or fund for which collected, and shall be subject to appropriation by the general assembly for the particular purpose or fund for which collected during the biennium in which collected and appropriated. The unexpended balance remaining in all such funds (except such unexpended balance as may remain in any fund authorized, collected and expended by virtue of the provisions of the constitution of this state) shall at the end of the biennium and after all warrants on same have been discharged and the appropriation thereof has lapsed, be transferred and placed to the credit of the ordinary revenue fund of the state by the state treasurer. Any official or any person who shall willfully fail to comply with any of the provisions of this section, and any person who shall willfully violate any provision hereof, shall be deemed guilty of a misdemeanor; provided, that all such money received by the curators of the University of Missouri except those funds required by law or by instrument granting the same to be paid into the seminary fund of the state, is excepted herefrom, and in the case of other state educational institutions there is excepted herefrom, gifts or trust funds from whatever source; appropriations; gifts or grants from the federal government, private organizations and individuals; funds for or from student activities; farm or housing activities; and other funds from which the whole or some part thereof may be liable to be repaid to the person contributing the same; and hospital fees. All of the above excepted funds shall be reported in detail quarterly to the governor and biennially to the general assembly.

[2. Notwithstanding any provision of law to the contrary concerning the funds listed in subdivisions (1) to (23) of this subsection, an amount equal to the sum of all interest that has accrued in the funds listed in subdivisions (1) to (23) of this subsection during the two-year period beginning July 1, 2001, and ending June 30, 2003, shall be transferred and placed to the credit of the general revenue fund of the state by the state treasurer upon the effective date of this act. The funds subject to the provisions of this section are as follows:

- (1) Residential mortgage licensing fund created pursuant to section 443.845, RSMo;
- (2) Gaming commission bingo fund created pursuant to section 313.008, RSMo;

- (3) Missouri air emission reduction fund created pursuant to section 643.350, RSMo;
- (4) Mental health housing trust fund created pursuant to section 215.054, RSMo;
- (5) Division of credit unions fund created pursuant to section 370.107, RSMo;
- (6) Division of savings and loan supervision fund created pursuant to section 369.324, RSMo;
- (7) Division of finance fund created pursuant to section 361.170, RSMo;
- (8) Natural resources protection fund created pursuant to section 640.220, RSMo, with the exception of the water permit fees subaccount and damages subaccount;
- (9) Endowed care cemetery audit fund created pursuant to section 193.265, RSMo;
- (10) Metallic minerals waste management fund created pursuant to section 444.370, RSMo;
- (11) Natural resources protection air pollution asbestos fee subaccount fund created pursuant to section 643.245, RSMo;
- (12) Chemical emergency preparedness fund created pursuant to section 292.607, RSMo;
- (13) Legal defense and defender fund created pursuant to section 600.090, RSMo;
- (14) Safe drinking water fund created pursuant to section 640.110, RSMo;
- (15) Coal mine land reclamation fund created pursuant to section 444.960, RSMo;
- (16) Missouri horse racing commission fund created pursuant to section 313.530, RSMo;
- (17) Hazardous waste remedial fund created pursuant to section 260.480, RSMo;
- (18) Missouri air pollution control fund created pursuant to section 307.366, RSMo;
- (19) Property reuse fund created pursuant to section 447.710, RSMo;
- (20) State transportation assistance revolving fund created pursuant to section 226.191, RSMo;
- (21) Correctional substance abuse earnings fund created pursuant to section 559.635, RSMo;
- (22) Mined land reclamation fund created pursuant to section 444.730, RSMo;
- (23) Aviation trust fund created pursuant to section 155.090, RSMo.

3. Notwithstanding any provision of law to the contrary concerning the funds listed in subdivisions (1) to (5) of this subsection, the amount specified for each fund listed in subdivisions (1) to (5) of this subsection shall be transferred and placed to the credit of the general revenue fund of the state by the state treasurer before October 1, 2003. The funds subject to the provisions of this subsection and the amount of transfer are as follows:

- (1) State fair fees fund created pursuant to section 262.260, RSMo, six thousand dollars;
- (2) Petroleum inspection fund created pursuant to section 414.082, RSMo, seventy-seven thousand six hundred and seventeen dollars;
- (3) Department of revenue information fund pursuant to section 32.067, RSMo, two hundred and fifty thousand dollars;
- (4) Secretary of state's technology trust fund account established pursuant to section 28.160, RSMo, one hundred and two thousand dollars;
- (5) Administrative trust fund established pursuant to subsection 11 of section 37.005, RSMo, three million five hundred thousand dollars.]

301.190. CERTIFICATE OF OWNERSHIP — APPLICATION, CONTENTS — SPECIAL REQUIREMENTS, CERTAIN VEHICLES — FEES — FAILURE TO OBTAIN WITHIN TIME LIMIT, DELINQUENCY PENALTY — DURATION OF CERTIFICATE — UNLAWFUL TO OPERATE WITHOUT CERTIFICATE — CERTAIN VEHICLES BROUGHT INTO STATE IN A WRECKED OR DAMAGED CONDITION OR AFTER BEING TOWED, INSPECTION — CERTAIN VEHICLES PREVIOUSLY REGISTERED IN OTHER STATES, DESIGNATION — RECONSTRUCTED MOTOR VEHICLES, PROCEDURE. — 1. No certificate of registration of any motor vehicle or trailer, or number plate therefor, shall be issued by the director of revenue unless the applicant therefor

shall make application for and be granted a certificate of ownership of such motor vehicle or trailer, or shall present satisfactory evidence that such certificate has been previously issued to the applicant for such motor vehicle or trailer. Application shall be made within thirty days after the applicant acquires the motor vehicle or trailer upon a blank form furnished by the director of revenue and shall contain the applicant's identification number, a full description of the motor vehicle or trailer, the vehicle identification number, and the mileage registered on the odometer at the time of transfer of ownership, as required by section 407.536, RSMo, together with a statement of the applicant's source of title and of any liens or encumbrances on the motor vehicle or trailer, provided that for good cause shown the director of revenue may extend the period of time for making such application.

2. The director of revenue shall use reasonable diligence in ascertaining whether the facts stated in such application are true and shall, to the extent possible without substantially delaying processing of the application, review any odometer information pertaining to such motor vehicle that is accessible to the director of revenue. If satisfied that the applicant is the lawful owner of such motor vehicle or trailer, or otherwise entitled to have the same registered in his name, the director shall thereupon issue an appropriate certificate over his signature and sealed with the seal of his office, procured and used for such purpose. The certificate shall contain on its face a complete description, vehicle identification number, and other evidence of identification of the motor vehicle or trailer, as the director of revenue may deem necessary, together with the odometer information required to be put on the face of the certificate pursuant to section 407.536, RSMo, a statement of any liens or encumbrances which the application may show to be thereon, and, if ownership of the vehicle has been transferred, the name of the state issuing the transferor's title and whether the transferor's odometer mileage statement executed pursuant to section 407.536, RSMo, indicated that the true mileage is materially different from the number of miles shown on the odometer, or is unknown.

3. The director of revenue shall appropriately designate on the current and all subsequent issues of the certificate the words "Reconstructed Motor Vehicle", "Motor Change Vehicle", "Specially Constructed Motor Vehicle", or "Non-USA-Std Motor Vehicle", as defined in section 301.010. Effective July 1, 1990, on all original and all subsequent issues of the certificate for motor vehicles as referenced in subsections 2 and 3 of section 301.020, the director shall print on the face thereof the following designation: "Annual odometer updates may be available from the department of revenue.". On any duplicate certificate, the director of revenue shall reprint on the face thereof the most recent of either:

(1) The mileage information included on the face of the immediately prior certificate and the date of purchase or issuance of the immediately prior certificate; or

(2) Any other mileage information provided to the director of revenue, and the date the director obtained or recorded that information.

4. The certificate of ownership issued by the director of revenue shall be manufactured in a manner to prohibit as nearly as possible the ability to alter, counterfeit, duplicate, or forge such certificate without ready detection. In order to carry out the requirements of this subsection, the director of revenue may contract with a nonprofit scientific or educational institution specializing in the analysis of secure documents to determine the most effective methods of rendering Missouri certificates of ownership nonalterable or noncounterfeitable.

5. The fee for each original certificate so issued shall be eight dollars and fifty cents, in addition to the fee for registration of such motor vehicle or trailer. If application for the certificate is not made within thirty days after the vehicle is acquired by the applicant, a delinquency penalty fee of twenty-five dollars for the first thirty days of delinquency and twenty-five dollars for each thirty days of delinquency thereafter, not to exceed a total of one hundred dollars before November 1, 2003, and not to exceed a total of two hundred dollars on or after November 1, 2003, shall be imposed, but such penalty may be waived by the director for a good cause shown. If the director of revenue learns that any person has failed to obtain a certificate within thirty days after acquiring a motor vehicle or trailer or has sold a vehicle without obtaining a certificate, he

shall cancel the registration of all vehicles registered in the name of the person, either as sole owner or as a co-owner, and shall notify the person that the cancellation will remain in force until the person pays the delinquency penalty fee provided in this section, together with all fees, charges and payments which he should have paid in connection with the certificate of ownership and registration of the vehicle. The certificate shall be good for the life of the motor vehicle or trailer so long as the same is owned or held by the original holder of the certificate and shall not have to be renewed annually.

6. Any applicant for a certificate of ownership requesting the department of revenue to process an application for a certificate of ownership in an expeditious manner requiring special handling shall pay a fee of five dollars in addition to the regular certificate of ownership fee.

7. It is unlawful for any person to operate in this state a motor vehicle or trailer required to be registered under the provisions of the law unless a certificate of ownership has been issued as herein provided.

8. Before an original Missouri certificate of ownership is issued, an inspection of the vehicle and a verification of vehicle identification numbers shall be made by the Missouri state highway patrol on vehicles for which there is a current title issued by another state if a Missouri salvage certificate of title has been issued for the same vehicle but no prior inspection and verification has been made in this state, except that if such vehicle has been inspected in another state by a law enforcement officer in a manner comparable to the inspection process in this state and the vehicle identification numbers have been so verified, the applicant shall not be liable for the twenty-five dollar inspection fee if such applicant submits proof of inspection and vehicle identification number verification to the director of revenue at the time of the application. The applicant, who has such a title for a vehicle on which no prior inspection and verification have been made, shall pay a fee of twenty-five dollars for such verification and inspection, payable to the director of revenue at the time of the request for the application, which shall be deposited in the state treasury to the credit of the state highways and transportation department fund.

9. Each application for an original Missouri certificate of ownership for a vehicle which is classified as a reconstructed motor vehicle, specially constructed motor vehicle, kit vehicle, motor change vehicle, non-USA-std motor vehicle, or other vehicle as required by the director of revenue shall be accompanied by a vehicle examination certificate issued by the Missouri state highway patrol, or other law enforcement agency as authorized by the director of revenue. The vehicle examination shall include a verification of vehicle identification numbers and a determination of the classification of the vehicle. The owner of a vehicle which requires a vehicle examination certificate shall present the vehicle for examination and obtain a completed vehicle examination certificate prior to submitting an application for a certificate of ownership to the director of revenue. The fee for the vehicle examination application shall be twenty-five dollars and shall be collected by the director of revenue at the time of the request for the application and shall be deposited in the state treasury to the credit of the state highways and transportation department fund.

10. When an application is made for an original Missouri certificate of ownership for a motor vehicle previously registered or titled in a state other than Missouri or as required by section 301.020, it shall be accompanied by a current inspection form certified by a duly authorized official inspection station as described in chapter 307, RSMo. The completed form shall certify that the manufacturer's identification number for the vehicle has been inspected, that it is correctly displayed on the vehicle and shall certify the reading shown on the odometer at the time of inspection. The inspection station shall collect the same fee as authorized in section 307.365, RSMo, for making the inspection, and the fee shall be deposited in the same manner as provided in section 307.365, RSMo. If the vehicle is also to be registered in Missouri, the safety [and emissions inspections] **inspection** required in chapter 307, RSMo, **and the emissions inspection required under chapter 643, RSMo,** shall be completed and only the fees required by [sections 307.365 and 307.366] **section 307.365, RSMo, and section 643.315, RSMo,** shall

be charged to the owner. This section shall not apply to vehicles being transferred on a manufacturer's statement of origin.

11. Motor vehicles brought into this state in a wrecked or damaged condition or after being towed as an abandoned vehicle pursuant to another state's abandoned motor vehicle procedures shall, in lieu of the inspection required by subsection 10 of this section, be inspected by the Missouri state highway patrol in accordance with subsection 9 of this section. If the inspection reveals the vehicle to be in a salvage or junk condition, the director shall so indicate on any Missouri certificate of ownership issued for such vehicle. Any salvage designation shall be carried forward on all subsequently issued certificates of title for the motor vehicle.

12. When an application is made for an original Missouri certificate of ownership for a motor vehicle previously registered or titled in a state other than Missouri, and the certificate of ownership has been appropriately designated by the issuing state as a reconstructed motor vehicle, motor change vehicle, or specially constructed motor vehicle, the director of revenue shall appropriately designate on the current Missouri and all subsequent issues of the certificate of ownership the name of the issuing state and such prior designation.

13. When an application is made for an original Missouri certificate of ownership for a motor vehicle previously registered or titled in a state other than Missouri, and the certificate of ownership has been appropriately designated by the issuing state as non-USA-std motor vehicle, the director of revenue shall appropriately designate on the current Missouri and all subsequent issues of the certificate of ownership the words "Non-USA-Std Motor Vehicle".

14. The director of revenue and the superintendent of the Missouri state highway patrol shall make and enforce rules for the administration of the inspections required by this section.

15. Each application for an original Missouri certificate of ownership for a vehicle which is classified as a reconstructed motor vehicle, manufactured forty or more years prior to the current model year, and which has a value of three thousand dollars or less shall be accompanied by:

- (1) A proper affidavit submitted by the owner explaining how the motor vehicle or trailer was acquired and, if applicable, the reasons a valid certificate of ownership cannot be furnished;
- (2) Photocopies of receipts, bills of sale establishing ownership, or titles, and the source of all major component parts used to rebuild the vehicle;
- (3) A fee of one hundred fifty dollars in addition to the fees described in subsection 5 of this section. Such fee shall be deposited in the state treasury to the credit of the state highways and transportation department fund; and
- (4) An inspection certificate, other than a motor vehicle examination certificate required under subsection 9 of this section, completed and issued by the Missouri state highway patrol, or other law enforcement agency as authorized by the director of revenue. The inspection performed by the highway patrol or other authorized local law enforcement agency shall include a check for stolen vehicles.

The department of revenue shall issue the owner a certificate of ownership designated with the words "Reconstructed Motor Vehicle" and deliver such certificate of ownership in accordance with the provisions of this chapter. Notwithstanding subsection 9 of this section, no owner of a reconstructed motor vehicle described in this subsection shall be required to obtain a vehicle examination certificate issued by the Missouri state highway patrol.

301.800. REGISTRATION OF SOLAR POWERED VEHICLE — APPLICATION — LICENSE PLATE — FEES — INSPECTIONS, OPERATION. — 1. Any motor vehicle assembled by a two- or four-year institution of higher education exclusively utilizing solar power and built to compete in a national competition organized to foster interest in solar energy shall be registered and titled by the director of revenue, other laws regulating licensing of motor vehicles to the contrary notwithstanding.

2. Such institution shall file an application in a form prescribed by the director, verified by affidavit, that such vehicle meets the requirements of subsection 1 of this section.

3. The plate issued by the director shall be the collegiate plate of the institution and shall display the term "solar" in a manner prescribed by the director.

4. The institution shall pay the applicable fees as determined by the director.

5. Such motor vehicle shall be exempt from the inspections required by [sections 307.350 and 307.366] **section 307.350, RSMo, and section 643.315, RSMo**, and shall only be operated on the streets and highways with the approval of the institution of higher education.

307.367. TRANSFER OF MONEYS TO THE MISSOURI AIR EMISSION REDUCTION FUND, WHEN, USE OF MONEYS, EXEMPTION FROM TRANSFER, MISSOURI AIR POLLUTION CONTROL FUND ABOLISHED, WHEN. — Prior to September 1, 2007, but no earlier than August 1, 2007, all moneys held in the Missouri air pollution control fund established under section 307.366, shall be transferred, as deemed necessary by the state treasurer and commissioner of administration, to the Missouri air emission reduction fund established in section 643.350, RSMo, to be used for the purposes of administering and enforcing the provisions of sections 643.300 to 643.355, RSMo. Prior to such date, any of the moneys in the Missouri air pollution control fund that are needed to pay any outstanding debt of the Missouri air pollution control fund, as determined by the state treasurer, shall be exempted from the provisions of this section. The Missouri air pollution control fund shall be officially abolished on September 1, 2007.

643.300. CITATION OF LAW — MANDATE OF CONGRESS. — Sections 643.300 to 643.355 shall be known as the "Air Quality Attainment Act". The enactment of the air quality attainment act [is] **and any subsequent amendments to such act are** a mandate of the United States Congress under the federal Clean Air Act, as amended, 42 U.S.C. 7401, et seq.

643.303. DECENTRALIZED EMISSIONS PROGRAM FOR INSPECTIONS, WHEN, PROGRAM FOR INSPECTING CERTAIN MOTOR VEHICLES, REQUIREMENTS — APPLICATION FOR AUTHORIZATION TO CONDUCT EMISSION INSPECTIONS — REPAIRS — CERTIFICATION TO BEGIN, WHEN, REPORT — REMOTE SENSING DEVICES AND GAS CAP TESTS AUTHORIZED — PROGRAM REQUIREMENTS, INTERAGENCY AGREEMENTS — RULEMAKING AUTHORITY — PROMOTION OF PROGRAM. — 1. Beginning September 1, 2007, emissions inspections required by sections 643.300 to 643.355 shall be conducted through a decentralized emissions program that meets the requirements of this section. Prior to September 1, 2007, the air conservation commission shall develop a decentralized emissions inspection program that allows official inspection stations to conduct on-board diagnostic emission inspections of 1996 model year and newer motor vehicles equipped with on-board diagnostic systems meeting the federal Environmental Protection Agency On-Board Diagnostics II (OBDII) standards. The decentralized emissions inspection program shall, at a minimum, provide for the following:

(1) The periodic inspection of certain motor vehicles as required under section 643.315;

(2) The certification and operation of official emissions inspection stations and the licensing of emission inspectors;

(3) The testing of motor vehicles through on-board diagnostic testing technologies;

(4) The training, certification, and supervision of emission inspectors and other personnel; and

(5) Procedures for certifying test results and for reporting and maintaining relevant data records.

2. In addition to any other criteria established by the commission under section 643.320 or by rule, the decentralized emissions inspection program shall allow any official inspection station located in an area described in subsection 1 of section 643.305 otherwise qualified by the Missouri state highway patrol to conduct motor vehicle safety inspections

under section 307.360, RSMo, to conduct on-board diagnostic emission inspections. Any motor vehicle safety inspection station that desires to conduct emissions inspections shall submit an application for a certificate of authorization to the commission as provided for under section 643.320. Other individuals, corporations, or entities that do not conduct motor vehicle safety inspections may conduct emission inspections provided they meet the qualifications set forth in sections 643.300 to 643.355 and the rules promulgated by the commission. Applications shall be made upon a form designated by the commission and shall contain such information as may be required by the commission. A certificate of authorization issued under section 643.320 to conduct emission inspections shall be issued only after the commission has made a determination that the applicant's proposed inspection station will be properly equipped, has the necessary licensed emission inspectors to conduct inspections, and meets all other requirements of sections 643.300 to 643.355 or rules promulgated to carry out the provisions of those sections.

3. The decentralized emissions inspection program shall allow any official inspection station that is certified to conduct an on-board diagnostic emission inspection under sections 643.300 to 643.355 to repair motor vehicles in order to bring such vehicles into compliance with sections 643.300 to 643.355, if such station and personnel meet the qualifications to conduct emission repairs as set forth in sections 643.300 to 643.355. An official emission inspection station may elect to be an emissions test-only station or may elect to conduct both emission inspections and repairs.

4. The commission is authorized to begin certification of official inspection stations prior to September 1, 2007, in order to implement the decentralized emissions inspection program. Prior to January 1, 2007, the department of natural resources shall issue a report to the general assembly and the governor regarding the progress of implementing the decentralized emissions inspection program. The report shall include, but not be limited to, a summary describing how many inspection stations or individuals the department expects to participate in the program and how many inspection stations or individuals will be qualified by September 1, 2007, to conduct such emissions inspections.

5. The commission may, as a part of implementing the decentralized emissions inspection program, use remote sensing devices to collect information regarding the vehicle fleet emissions characteristics and registration compliance within the area described in subsection 1 of section 643.305. The decentralized emissions inspection program established by the commission may also include a clean screen program that utilizes remote sensing devices. Owners of eligible vehicles who comply with clean screen/remote sensing procedures shall be deemed to have complied with the mandatory inspection requirements for the next inspection cycle. As used in this subsection, the term "clean screen program" shall mean a procedure or system that utilizes remote sensing technologies to determine whether a motor vehicle has acceptable emission levels and then allows the motor vehicle owner to bypass the emissions inspection test required under section 643.315.

6. The decentralized emissions inspection program may include a gas cap pressure test and a visual inspection component, and such tests may be included as part of the motor vehicle safety inspection test under section 307.350, RSMo.

7. As used in sections 643.300 to 643.355, "decentralized emissions inspection program" means an emissions inspection program under which a certified emissions inspector conducts emissions inspection testing at an official inspection station.

8. The decentralized emission inspection program shall satisfy the requirements established by regulation of the United States Environmental Protection Agency.

9. The decentralized emissions inspection program established by the commission and sections 643.300 to 643.355 shall not be construed to be a new program as described in section 23.253, RSMo, and the decentralized emissions inspection program shall not be subject to the sunset mandate prescribed by sections 23.250 to 23.298, RSMo.

10. No later than July 1, 2007, the department of natural resources and the Missouri highway patrol shall enter into an interagency agreement covering all aspects of the administration and enforcement of sections 643.300 to 643.355.

11. No later than July 1, 2007, the air conservation commission shall promulgate rules for the implementation of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

12. Prior to September 1, 2007, the department of natural resources shall actively promote participation in the decentralized emissions inspection program among qualified motor vehicle dealers, service stations, and other individuals. After the implementation of the decentralized emission inspection program, the department shall monitor participation in such program. In determining whether there are a sufficient number of individuals conducting motor vehicle emission inspections under the decentralized program, the department shall attempt to ensure, through promotional efforts, that no more than twenty percent of all persons residing in the affected nonattainment area reside farther than five miles from the nearest inspection station.

643.305. COMMISSION TO ADOPT STATE IMPLEMENTATION PLAN, NONATTAINMENT AREAS, CERTAIN CITIES AND COUNTIES — EMISSION REDUCTIONS ESTABLISHED — DEPARTMENT TO ESTABLISH AIR QUALITY BASELINE — COST OF REDUCTION MEASURES, DETERMINATION — EMISSIONS INSPECTION PROGRAM, REPORT, PUBLIC INFORMATION PROGRAM. — 1. The air conservation commission shall adopt a state implementation plan to bring all nonattainment areas of the state which are located within a city not within a county, any county [of the first classification having a population of over nine hundred thousand inhabitants, any county of the first classification with a charter form of government and a population of not more than two hundred twenty thousand inhabitants and not less than two hundred thousand inhabitants, any county of the first classification without a charter form of government with a population of not more than one hundred eighty thousand inhabitants and not less than one hundred seventy thousand inhabitants and any county of the first classification without a charter form of government with a population of not more than eighty-two thousand inhabitants and not less than eighty thousand inhabitants] **with a charter form of government and with more than one million inhabitants, any county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants, any county of the first classification with more than one hundred ninety-eight thousand but fewer than one hundred ninety-nine thousand two hundred inhabitants, and any county of the first classification with more than ninety-three thousand eight hundred but fewer than ninety-three thousand nine hundred inhabitants,** into compliance with and to maintain the National Ambient Air Quality Standards and any regulations promulgated by the United States Environmental Protection Agency under the federal Clean Air Act, as amended, 42 U.S.C. 7401, et seq., on the required date or dates as such dates are established under the federal Clean Air Act, as amended, 42 U.S.C. 7401, et seq., including any extensions authorized pursuant to that act.

2. The commission shall establish the amount of emissions reductions required to achieve the goal established pursuant to subsection 1 of this section.

3. The department shall establish an air quality baseline for all nonattainment areas of the state which are located within a metropolitan statistical area with a population of at least one million inhabitants as defined by the federal Office of Management and Budget or its successor agency. The air quality baseline shall include, where practical, actual air contaminant emissions data and data on the atmospheric concentrations of pollution and pollution precursors for all nonattainment areas.

4. The department shall determine the costs and benefits of alternative reduction measures including reductions of emissions from stationary and mobile sources and traffic control measures. The department of transportation, regional planning commissions and metropolitan planning organizations shall participate with the department and provide information necessary to determine the costs and benefits of emissions reduction measures.

5. The department shall evaluate any motor vehicle emissions inspection program established under [section 307.366, RSMo, or] sections 643.300 to 643.355 and shall annually include in the report to the commission and the general assembly required under section 643.192, beginning on January 1, 1996, a detailed accounting of the inspection costs and repair costs incurred by vehicle owners and of the emissions reductions produced or incurred by the program. The department may use a representative sample of vehicles to provide a statistically valid estimate of the repair costs and emissions reductions. The report shall also include a recommendation to the general assembly on whether the emissions inspection program should be continued, modified or terminated.

6. The department shall establish a program of public information and education to educate the citizens of the state about the costs and benefits associated with reaching attainment of the National Ambient Air Quality Standards and the costs and benefits of all measures which are considered to attain those standards. This shall be done prior to the commission's action under subsection 1 of this section.

643.310. COMMISSION TO ESTABLISH DECENTRALIZED MOTOR VEHICLE EMISSIONS INSPECTION PROGRAM, CERTAIN CITIES AND COUNTIES, EXCEPTIONS — SELECTION OF PERSON TO OPERATE INSPECTION FACILITY OR PROGRAM, PROCEDURE, CONTRACT REQUIREMENT — SELECTION OF CONTRACTORS, MINORITIES, MOTOR VEHICLE DEALERS — STORAGE OF CONVENTIONAL GASOLINE IN NONATTAINMENT AREA. — 1.

The commission may, by rule, establish a **decentralized** motor vehicle emissions inspection program pursuant to sections 643.300 to 643.355 for any portion of a nonattainment area located within the area described in subsection 1 of section 643.305[, except for any portion of the nonattainment area which is located in a county of the first classification without a charter form of government with a population of less than one hundred thousand inhabitants according to the most recent decennial census, except that the commission may establish a motor vehicle emissions inspection program pursuant to sections 643.300 to 643.355 in such county only for motor vehicles owned by residents of such county who have chosen to participate in such a program in lieu of the provisions of section 307.366, RSMo]. **The decentralized motor vehicle emissions inspection program shall be implemented and applied in the same manner throughout every portion of a nonattainment area located within the area described in subsection 1 of section 643.305.** The commission shall ensure that, for each nonattainment area, the state implementation plan established pursuant to subsection 1 of section 643.305 incorporates and receives all applicable credits allowed by the United States Environmental Protection Agency for emission reduction programs in other nonattainment areas of like designation in other states. The commission shall ensure that emission reduction amounts established pursuant to subsection 2 of section 643.305 shall be consistent with and not exceed the emissions reduction amounts required by the United States Environmental Protection Agency for other nonattainment areas of like designation in other states. No motor vehicle emissions inspection program shall be required to comply with subsection 1 of section 643.305 unless the plan established thereunder takes full advantage of any changes in requirements or any agreements made or entered into by the United States Environmental Protection Agency and any entity or entities on behalf of a nonattainment area concerning compliance with National Ambient Air Quality Standards of the federal Clean Air Act, as amended, 42 U.S.C. 7401, et seq., and the regulations promulgated thereunder. [The air conservation commission shall request and it shall be the duty of the attorney general to bring, in a court of competent jurisdiction, an action challenging the authority of the United States Environmental Protection Agency to impose sanctions for failure to attain National Ambient Air Quality Standards and failure to provide for required emission reductions under the federal Clean Air Act, as amended, 42 U.S.C. 7401, et seq. The action shall seek to define the required emission reductions and the credits allowed for current and planned emission reductions measures. The air conservation commission shall request and it shall be the duty of the attorney general to bring an action to obtain injunctive relief to enjoin and restrain the imposition of sanctions on the state of Missouri under the federal Clean Air Act, as amended, 42 U.S.C. 7401, et seq., until all actions initiated pursuant to this section have been decided. Provisions of section 307.366, RSMo, to the contrary notwithstanding, the requirements of sections 643.300 to 643.355 shall apply to those areas designated by the commission pursuant to this section in lieu of the provisions of section 307.366, RSMo.]

2. No later than the effective date of this section, the department of natural resources and the Missouri highway patrol shall enter into an interagency agreement covering all aspects of the administration and enforcement of section 307.366, RSMo, and sections 643.300 to 643.355.

3.] **2.** (1) The department, with the cooperation and approval of the commissioner of administration, shall select a person or persons to operate an inspection facility or inspection program pursuant to sections 643.300 to 643.355, under a bid procedure or under a negotiated process or a combination thereof based on criteria and expectations established by the department. This process may use either a licensing arrangement or contractual arrangement with the selected party or parties. The selection of persons to operate inspection facilities or inspection programs shall be exempt from the provisions of all site procurement laws. [The

number of locations shall be no less than the number needed to provide adequate service to customers and establish an emissions inspection program which satisfies the requirements of this section.] Each person who is authorized to operate a station pursuant to this section shall be capable of providing adequate and cost-effective service to customers.

(2) Service management, coordination and data processing may be provided by the department or by another person, including a contractor or licensee, based upon the most cost-effective proposal for service.

(3) A license or contract shall be for a period of up to seven years, consistent with the provisions of article IV, section 28 of the Missouri Constitution, and licenses or contracts shall be annually reviewed. A license or contract may be suspended or revoked if the licensee or contractor is not meeting the conditions of sections 643.300 to 643.355, all applicable rules, the license agreement or contract as determined by the department. A licensee or contractor found to have violated sections 643.300 to 643.355, applicable rules or the conditions of the license agreement or contract shall be in violation of section 643.151 and subject to the penalties provided thereunder.

[4. The inspection program shall satisfy the following criteria:

(1) There shall be an adequate number of stations to ensure that no more than twenty percent of all persons residing in an affected nonattainment area reside farther than five miles from the nearest inspection station, and consideration shall be given to employment, locations and commuting patterns when selecting the locations of the stations;

(2) There shall be an adequate number of inspection lanes at each facility so that no more than five percent of all persons having an inspection are required to wait more than fifteen minutes before the inspection begins;

(3) The days and daily hours of operation shall include at least those hours specified by the department, which shall include, at a minimum, twelve continuous hours of operation on all weekdays excepting federal holidays, and six continuous hours of operation on all Saturdays excepting federal holidays;

(4) The emissions inspection program shall include a simulated on-road emissions inspection component, including pressure and purge tests, which satisfies the requirements established by regulation of the United States Environmental Protection Agency and may include a visual inspection component;

(5) The inspection stations shall be test-only stations and shall not offer motor vehicle emissions repairs, parts or services of any kind;

(6) No person operating or employed by an emissions inspection station shall repair or maintain motor vehicle emission systems or pollution control devices for compensation of any kind.

5.] **3.** The commission, the department of economic development and the office of administration shall, in cooperation with the minority business advocacy commission, select the contractor or contractors to provide an inspection program which satisfies the minimum requirements of this section in accordance with the requirements of section 33.752, RSMo, and chapter 34, RSMo. The commission, the office of administration and the department of economic development, in cooperation with the minority business advocacy commission, shall ensure adequate minority business participation in the selection of the contractor or contractors to provide an inspection program pursuant to this section. The commission, the office of administration and the department of economic development shall ensure adequate participation of Missouri businesses in the selection of the contractor or contractors to provide an inspection program pursuant to this section.

[6.] **4.** With approval of the commission and pursuant to rules adopted by the commission, an organization whose members are motor vehicle dealers or leasing companies may establish one or more additional emissions inspection facilities, which may be either mobile or stationary, to be used solely to inspect motor vehicles owned and held for sale or lease by the members of the organization. With approval of the commission and pursuant to rules adopted by the

commission, any person operating a fleet of [five hundred or more] motor vehicles may establish one or more additional emissions inspection facilities, which may be either mobile or stationary, to be used solely to inspect motor vehicles owned or leased and operated by the person establishing the facility. The inspections performed in facilities established pursuant to this subsection shall be performed by a contractor selected by the commission pursuant to this section and the contractor performing such inspections shall be responsible solely to the department and shall satisfy all applicable requirements of sections 643.300 to 643.355.

[7. Any person who owns Missouri analyzer system emission inspection equipment as defined by rule, used to provide emissions inspections pursuant to section 307.366, RSMo, at a facility located in an area in which an emissions inspection program has been established pursuant to sections 643.300 to 643.355 may, within twelve months of the implementation of an emissions inspection program pursuant to sections 643.300 to 643.355, sell such equipment to the department of natural resources at current market value as established by an independent appraisal provided that the equipment is fully functional and has been maintained according to all applicable manufacturer's specifications and procedures. The department shall purchase such equipment using funds appropriated for that purpose from the Missouri air emission reduction fund. Any person who, prior to January 1, 1992, contracted to lease or lease purchase, or purchased by borrowing a portion of the funds secured by a chattel mortgage, Missouri analyzer system emission inspection equipment used to provide emissions inspections pursuant to section 307.366, RSMo, at a facility located in an area in which an emissions inspection program has been established pursuant to sections 643.300 to 643.355, and has made all payments required under the contract, may, within twelve months of the implementation of an emissions inspection program pursuant to sections 643.300 to 643.355, request the department of natural resources to take possession of such equipment and assume all payment obligations owed on such equipment which obligations are not in excess of one hundred and twenty-five percent of the current market value as established by an independent appraisal, provided that the equipment is fully functional and has been maintained according to all applicable manufacturer's specifications and procedures. The department shall take possession of such equipment and pay such obligations using funds appropriated for that purpose from the Missouri air emission reduction fund.

8.] **5.** If the governor applies to the administrator of the Environmental Protection Agency to require federal reformulated gasoline in nonattainment areas, nothing in sections 643.300 to 643.355 shall prevent the storage of conventional gasoline in nonattainment areas which is intended for sale to agricultural, commercial or retail customers outside said nonattainment areas subject to reformulated gasoline.

[9. The governor, the department of natural resources, and the commission shall work to ensure an orderly transition period in the nonattainment area for the introduction of reformulated gasoline. Priority shall be given to ensure the petroleum refiners ample time to organize, structure, and implement both the production and the delivery of reformulated gasoline to the nonattainment area, so that consumers will see an orderly, seamless market substitution.]

643.315. MOTOR VEHICLES SUBJECT TO PROGRAM, WHEN, EVIDENCE OF INSPECTION AND APPROVAL — EXCEPTIONS — RECIPROCITY WITH OTHER STATES — DEALER INSPECTION, RETURN OF MOTOR VEHICLE FOR FAILING INSPECTION, OPTIONS, VIOLATION.

— 1. Except as provided in sections 643.300 to 643.355, all motor vehicles which are domiciled, registered or primarily operated in an area for which the commission has established a motor vehicle emissions inspection program pursuant to sections 643.300 to 643.355[, which may include all motor vehicles owned by residents of a county of the first classification without a charter form of government with a population of less than one hundred thousand inhabitants according to the most recent decennial census who have chosen to participate in such a program in lieu of the provisions of section 307.366, RSMo,] shall be inspected and approved prior to sale or transfer; **provided that, if such vehicle is inspected and approved prior to sale or**

transfer, such vehicle shall not be subject to another emissions inspection for ninety days after the date of sale or transfer of such vehicle. In addition, any such vehicle manufactured as an even-numbered model year vehicle shall be inspected and approved under the emissions inspection program established pursuant to sections 643.300 to 643.355 in each even-numbered calendar year and any such vehicle manufactured as an odd-numbered model year vehicle shall be inspected and approved under the emissions inspection program established pursuant to sections 643.300 to 643.355 in each odd-numbered calendar year. All motor vehicles subject to the inspection requirements of sections 643.300 to 643.355 shall display a valid emissions inspection sticker, and when applicable, a valid emissions inspection certificate shall be presented at the time of registration or registration renewal of such motor vehicle. **The department of revenue shall require evidence of the safety and emission inspection and approval required by this section in issuing the motor vehicle annual registration in conformity with the procedure required by sections 307.350 to 307.390, RSMo, and sections 643.300 to 643.355. The director of revenue may verify that a successful safety and emissions inspection was completed via electronic means.**

2. [No emission standard established by the commission for a given make and model year shall exceed the lesser of the following:

- (1) The emission standard for that vehicle model year as established by the United States Environmental Protection Agency; or
- (2) The emission standard for that vehicle make and model year as established by the vehicle manufacturer.

3.] The inspection requirement of subsection 1 of this section shall apply to all motor vehicles except:

- (1) Motor vehicles with a manufacturer's gross vehicle weight rating in excess of eight thousand five hundred pounds;
- (2) Motorcycles and motortricycles if such vehicles are exempted from the motor vehicle emissions inspection under federal regulation and approved by the commission by rule;
- (3) Model year vehicles manufactured [twenty-six years or more] prior to [the current model year] **1996;**
- (4) Vehicles which are powered exclusively by electric or hydrogen power or by fuels other than gasoline which are exempted from the motor vehicle emissions inspection under federal regulation and approved by the commission by rule;
- (5) Motor vehicles registered in an area subject to the inspection requirements of sections 643.300 to 643.355 which are domiciled and operated exclusively in an area of the state not subject to the inspection requirements of sections 643.300 to 643.355, but only if the owner of such vehicle presents to the department an affidavit that the vehicle will be operated exclusively in an area of the state not subject to the inspection requirements of sections 643.300 to 643.355 for the next twenty-four months, and the owner applies for and receives a waiver which shall be presented at the time of registration or registration renewal;
- (6) New and unused motor vehicles, of model years of the current calendar year and of any calendar year within two years of such calendar year, which have an odometer reading of less than six thousand miles at the time of original sale by a motor vehicle manufacturer or licensed motor vehicle dealer to the first user; [and]
- (7) Historic motor vehicles registered pursuant to section 301.131, RSMo;
- (8) **School buses;**
- (9) **Heavy-duty diesel-powered vehicles with a gross vehicle weight rating in excess of eight thousand five hundred pounds;**
- (10) **New motor vehicles that have not been previously titled and registered, for the four-year period following their model year of manufacture, provided the odometer reading for such motor vehicles are under forty thousand miles at their first required biennial safety inspection conducted under sections 307.350 to 307.390, RSMo; otherwise such motor vehicles shall be subject to the emissions inspection requirements of subsection**

1 of this section during the same period that the biennial safety inspection is conducted; and

(11) Motor vehicles that are driven fewer than twelve thousand miles between biennial safety inspections.

[4.] **3.** The commission may, by rule, allow inspection reciprocity with other states having equivalent or more stringent testing and waiver requirements than those established pursuant to sections 643.300 to 643.355.

[5.] **4.** (1) At the time of sale, a licensed motor vehicle dealer, as defined in section 301.550, RSMo, may choose to sell a motor vehicle subject to the inspection requirements of sections 643.300 to 643.355 either:

(a) With prior inspection and approval as provided in subdivision (2) of this subsection; or

(b) Without prior inspection and approval as provided in subdivision (3) of this subsection.

(2) If the dealer chooses to sell the vehicle with prior inspection and approval, the dealer shall disclose, in writing, prior to sale, whether the vehicle obtained approval by meeting the emissions standards established pursuant to sections 643.300 to 643.355 or by obtaining a waiver pursuant to section 643.335. A vehicle sold pursuant to this subdivision by a licensed motor vehicle dealer shall be inspected and approved within the one hundred twenty days immediately preceding the date of sale, and, for the purpose of registration of such vehicle, such inspection shall be considered timely.

(3) If the dealer chooses to sell the vehicle without prior inspection and approval, the purchaser may return the vehicle within ten days of the date of purchase, provided that the vehicle has no more than one thousand additional miles since the time of sale, if the vehicle fails, upon inspection, to meet the emissions standards specified by the commission and the dealer shall have the vehicle inspected and approved without the option for a waiver of the emissions standard and return the vehicle to the purchaser with a valid emissions certificate and sticker within five working days or the purchaser and dealer may enter into any other mutually acceptable agreement. If the dealer chooses to sell the vehicle without prior inspection and approval, the dealer shall disclose conspicuously on the sales contract and bill of sale that the purchaser has the option to return the vehicle within ten days, provided that the vehicle has no more than one thousand additional miles since the time of sale, to have the dealer repair the vehicle and provide an emissions certificate and sticker within five working days if the vehicle fails, upon inspection, to meet the emissions standards established by the commission, or enter into any mutually acceptable agreement with the dealer. A violation of this subdivision shall be an unlawful practice as defined in section 407.020, RSMo. No emissions inspection shall be required pursuant to sections 643.300 to 643.360 for the sale of any motor vehicle which may be sold without a certificate of inspection and approval, as provided pursuant to subsection 2 of section 307.380, RSMo.

643.320. CRITERIA FOR OPERATION OF INSPECTION STATIONS, ESTABLISHED — APPLICATION, FORM, FEE — DEPARTMENT TO INSPECT — SUSPENSION AND REVOCATION OF LICENSE, PROCEDURE — REQUIRED REPORTS — ALTERNATIVE ADMINISTRATIVE ENFORCEMENT MECHANISMS — SIGN, REQUIREMENTS, FURNISHED BY DEPARTMENT, COST.

— 1. [The commission shall establish, by rule, procedures, standards, and requirements for the operation of emissions inspection stations and the conduct of emissions inspections.] **The commission shall prescribe the standards and equipment necessary for an official emissions inspection station and the qualifications for persons who conduct the inspections, and no applicant for certificate of authorization to conduct emissions inspections may be approved to operate an official emissions inspection station until the applicant meets the standards and has the required equipment and qualified inspectors as prescribed by the commission. The commission shall establish standards and procedures to be followed in**

the making of inspections required by sections 643.300 to 643.355 and shall prescribe rules for the operation of emissions inspection stations.

2. [The emissions inspection stations shall be operated in accordance with all requirements established by the commission under this section.] **The application for a certificate of authorization to operate as an official emissions inspection station shall be made to the commission on a form furnished by the commission. The application shall be accompanied by a fee established by the commission by rule, but in no case shall the fee exceed one hundred dollars. The certificate of authorization shall be renewed annually on the date of issue. All fees shall be payable to the director of revenue and shall be deposited by the director of revenue in the state treasury to the credit of the Missouri air emission reduction fund established under section 643.350.**

3. The [department] **commission or its designee** shall cause unannounced inspections to be made of the operation of each emissions inspection station at least once during each calendar year. The inspection may include submitting a known high emission vehicle for inspection without prior disclosure to the inspection station. **At any time the commission or its designee shall have reason to believe that any person has violated any provisions of the provisions of sections 643.300 to 643.355 or the rules promulgated thereunder, the commission or its designee shall refuse to issue or shall revoke or suspend any certificate of authority under this section. The suspension or revocation of a certificate of authority shall be in writing to the operator, inspector, or the person in charge of the emissions inspection station. Before suspending or revoking the certificate of authority to conduct emissions inspections, the commission or its designee shall serve notice in writing by certified mail or by personal service to the inspection station at the operator's address of record giving the permittee the opportunity to appear in the office of the commission on a stated date, not less than ten nor more than thirty days after the mailing or service of the notice, for a hearing to show cause why the inspection station's certificate of authority should not be suspended or revoked. An inspection station owner or an inspector may appear in person or by counsel in the office of the commission or its designee to show cause why the proposed suspension or revocation is in error, or to present any other facts or testimony that would bear on the final decision of the commission or its designee. If the operator, owner, or inspector does not appear on the stated day after receipt of notice, it shall be presumed that such party admits the allegations of fact contained in the hearing notification letter. The decision of the commission or its designee may in such case be based upon the written reports submitted by the commission's officers. The order of the commission, specifying his findings of fact and conclusions of law, shall be considered final immediately after receipt of notice thereof by the inspection station.**

4. The department may require emissions inspection stations to furnish reports, upon forms furnished by the department for that purpose, that the department considers necessary for the administration of sections 643.300 to 643.355.

5. [No emissions inspection required under sections 643.300 to 643.355 may be performed at an emissions inspection station unless there is conspicuously posted on the premises of the emissions inspection station a sign which is at least eight feet high and sixteen feet wide and which sign bears the legend: "This inspection is mandated by the United States Environmental Protection Agency under powers granted to it by your United States Senators and Representatives in Washington, D.C." A standard sign, designed by the department and containing letters of at least six inches in height, shall be used by all emissions inspection stations. Such signs shall be furnished by the department to each emissions inspection station at no cost to the station.] **The commission may impose alternative administrative enforcement mechanisms in lieu of suspending or revoking a certificate of authority. Such alternative administrative enforcement mechanisms may include, but not be limited to, requiring inspectors to successfully complete a commission-approved retraining program. The**

commission also may require any individual who has his or her certificate of authority suspended to undergo remedial retraining as a condition of removing such suspension.

6. The commission shall design and furnish each official emissions inspection station, at no cost, one official sign made of metal or other durable material to be displayed in a conspicuous location to designate the station as an official emissions inspection station. Additional signs may be obtained by an official inspection station for a fee equal to the cost to the state. Each official emissions inspection station shall also be supplied with one or more posters which must be displayed in a conspicuous location at the place of inspection and which informs the public that required repairs or corrections need not be made at the inspection station.

643.330. VEHICLE FAILURE ON INSPECTION, REINSPECTION, CHARGE — INSPECTOR TO PROVIDE WRITTEN ESTIMATE, COST OF REPAIRS — DEPARTMENT TO TEST FACILITIES, VIOLATIONS. — 1. An owner whose vehicle fails, upon inspection, to meet the emissions standards specified by the commission may have the vehicle reinspected after making repairs or adjustments to the vehicle to reduce emissions.

2. No motor vehicle owner shall be charged an additional emissions inspection fee for **one additional emissions [reinspections] reinspection** completed within [thirty calendar days] **twenty consecutive days, excluding Saturdays, Sundays, and holidays**, of the initial emissions inspection. **Such fee only shall be waived or not charged if the reinspection is made by the station making the initial inspection.**

3. [The department shall publish a list of emissions repair and adjustment procedures based on the ratio of potential emissions reductions to cost, and the list shall be distributed and made available at all emissions inspection stations. The list shall indicate the most cost-effective measures that a vehicle owner can take to reduce emissions.

4.] The inspector shall provide in writing to the owner of a vehicle which fails, upon inspection, to meet the emissions standards, the nature of the vehicle's failure, the components or equipment responsible for the failure and the estimated cost of repair to the extent practical pursuant to rules promulgated by the commission.

[5.] 4. The department shall cause unannounced tests of facilities which repair, service or maintain motor vehicle emissions components and equipments, including submitting known high emission vehicles with known defects for repair without prior disclosure to the repair facility. Any suspected violations of chapter 407, RSMo, shall be reported by the department to the attorney general who shall institute appropriate proceedings under sections 407.095 and 407.100, RSMo, regarding unlawful merchandising practices.

643.335. WAIVER AMOUNT ESTABLISHED BY COMMISSION, COST, LIMITS — VERIFICATION OF REPAIRS, PROCEDURE — WAIVER FORM, AFFIDAVIT — AMOUNT, HOW CALCULATED — WAIVER AMOUNT FOR REPAIRS BY OWNER, FORM — WAIVER AMOUNT FOR OWNERS RECEIVING PUBLIC ASSISTANCE. — 1. The commission shall establish, by rule, a waiver amount which [may be lower for older model vehicles and which, prior to January 1, 2001, shall be no greater than seventy-five dollars for model year vehicles prior to 1981, no greater than two hundred dollars for model year vehicles of 1981 to 1996 and] **shall be** no greater than four hundred and fifty dollars[for model year vehicles of 1997 and all subsequent model years. On and after January 1, 2001, the commission may, by rule, set the waiver amount, except that the waiver amount shall not exceed the waiver amount provided in the federal Clean Air Act, as amended, 42 U.S.C. 7401 et seq., and the regulations promulgated thereunder for the enhanced motor vehicle emissions inspection].

2. The commission shall establish, by rule, a form and a procedure for verifying that repair and adjustment was performed on a failing vehicle prior to the granting of a waiver and approval.

3. The waiver form established pursuant to subsection 2 of this section shall be an affidavit requiring:

(1) A statement signed by the repairer that the specified work was done and stating the itemized charges for the work; and

(2) A statement signed by the [emissions inspection contractor] **commission or designee** that an inspection of the vehicle verified, to the extent practical, that the specified work was done. **An inspection to verify whether repair work was performed or not shall not be conducted by the same inspection station, inspector, or affiliate that performed the repair work.**

4. A vehicle which fails upon reinspection to meet the emissions standards specified by the commission shall have the emissions standards waived and receive approval only if the owner furnishes a complete, signed affidavit satisfying the requirements of subsection 3 of this section and the cost of the parts, repairs and adjustment work performed is equal to or greater than the waiver amount established by the commission. Costs for repair work may only be included toward reaching the waiver amount if the repairs are performed by a recognized repair technician [as defined by rule]. **As used in this section, a "recognized repair technician" means a repair technician who has obtained and possess valid A6, A8, and L1 certifications from the National Institute for Automotive Service Excellence.**

5. No cost for parts, repairs or adjustments shall be included toward reaching the waiver amount if such costs are covered by an emission control performance warranty provided by the manufacturer at no additional cost to the vehicle owner unless the vehicle owner provides, with the affidavit, a written denial of warranty remedy from the motor vehicle manufacturer, dealer or other person providing the warranty.

6. No cost for parts, repairs or adjustments shall be included toward reaching the waiver amount if such costs are required to correct the effects of tampering with emissions systems or air pollution control devices.

7. **Notwithstanding subsection 1 of this section, the waiver amount for an owner that performs repair work on his or her own vehicle shall be four hundred dollars, provided that the cost of the parts utilized by the owner to perform the repair is equal to or greater than four hundred dollars. The types of parts that shall account toward the waiver amount described in this subsection shall include only emission control components described in 40 CFR Section 51.360, as amended. The cost for labor performed by the owner shall not count toward the waiver limit. The commission shall establish, by rule, a waiver form for repair work performed by a vehicle owner. Such form shall include, but not be limited to:**

(1) A statement signed by the owner that the owner expended a minimum of four hundred dollars on qualified emission control components and that the owner installed such components; and

(2) A statement signed by the commission or its designee that an inspection of the vehicle verified, to the extent practical, that the qualified components were installed.

The owner also shall submit all original receipts for emission-related parts.

8. The commission may establish, by rule, a waiver amount which may be lower for owners who provide reasonable and reliable proof to the commission that the owner is financially dependant solely on state and federal disability benefits and other public assistance programs. Such proof shall be submitted to the commission thirty calendar days prior to each subsequent emissions inspection before the lowered waiver amount is allowed. For the purposes of this section, "reasonable and reliable proof" shall mean government issued documentation providing explanation of said customer's disability and financial assistance with regard to personal income.

643.337. OVERSIGHT OF VEHICLE EMISSIONS INSPECTION PROGRAM — REPORT — RULEMAKING AUTHORITY. — 1. The department of natural resources and the state highway patrol shall provide oversight for the vehicle emissions inspection program, including oversight of the repair services provided by recognized repair technicians for

such vehicles. The department and highway patrol may promulgate joint rules for the implementation of this subsection.

2. Beginning October 1, 2008, and every October first thereafter, the department and the highway patrol shall jointly submit an annual report to the general assembly detailing the oversight measures implemented for the program and data collected regarding compliance and incidents of fraud, and any recommendations for improvements to the program, including but not limited to statutory and regulatory changes.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

643.350. INSPECTION FEE — CONTRACTOR TO REMIT PORTION, DEPOSIT IN MISSOURI AIR EMISSION REDUCTION FUND, USE OF, BALANCE NOT TO LAPSE — MONEYS MAY BE DEPOSITED INTO GENERAL REVENUE FUND, WHEN — SUPPLEMENTATION OF FUNDS. — 1. A fee, not to exceed twenty-four dollars, may be charged for an emissions inspection conducted under the emissions inspection program established pursuant to sections 643.300 to 643.355[, except that on days of operation, other than the last three days of operation in each calendar month, the fee shall be reduced by:

(1) Ten dollars for any person who is required to wait more than thirty minutes before the inspection begins; and

(2) Twenty dollars for any person who is required to wait more than sixty minutes before the inspection begins.

The waiting time shall begin at the time when the customer's vehicle is on the premises of the inspection station and available for inspection.

2. The commission shall establish, by rule, a time-stamping system to ensure that the time of arrival and the time inspection begins is accurately recorded for each vehicle at each emissions inspection facility.

3.] 2. The fee shall be conspicuously posted on the premises of each emissions inspection station.

[4.] 3. The commission shall establish, by rule, the portion of the fee amount to be remitted by the [contractor] **emission inspection station** to the director of revenue and the number of days allowed for remitting fees.

[5. The contractor] 4. **The official emission inspection station** shall remit the portion of fees collected, as established by the commission pursuant to this section, to the [director of revenue] **state treasurer** within the time period established by the commission. The [director of revenue] **state treasurer** shall deposit the fees received in the state treasury to the credit of the "Missouri Air Emission Reduction Fund", which is hereby created. Moneys in the fund shall, subject to appropriation, be expended for the administration and enforcement of sections 643.300 to 643.355 by the department of natural resources, the Missouri highway patrol, and other appropriate agencies. Any balance in the fund at the end of the biennium shall remain in the fund and shall not be subject to the provisions of section 33.080, RSMo. All interest earned by moneys in the fund shall accrue to the fund. **If in the immediate previous fiscal year, the state's net general revenue did not increase by two percent or more, the state treasurer may deposit moneys, except for gifts, donations, or bequests, received under this section beginning January first of the current fiscal year into the state general revenue fund.**

Otherwise, the state treasurer shall deposit such moneys in accordance with the provisions of this section.

[6.] **5.** In addition to funds from the Missouri air emission reduction fund, costs of capital or operations may be supplemented, upon appropriation, from the general revenue fund, the state highway department fund, federal funds or other funds available for that purpose.

643.353. ANNUAL REPORT ON EFFECTIVENESS OF EMISSIONS INSPECTION PROGRAM, REQUIREMENTS. — Beginning January 15, 2008, and annually thereafter, the department of natural resources shall submit a report to the governor and general assembly that describes the overall effectiveness of the decentralized emissions inspection program. Such report shall be based upon the latest available data, including data derived from EPA model analysis. The report shall contain an interpretative analysis detailing whether or not the ambient air quality achieved by the decentralized emissions inspection program exceeds the ambient air quality achieved by the current centralized emissions inspection program.

[307.366. MOTOR VEHICLE EMISSIONS TESTED, WHEN, MANDATED BY CONGRESS FOR NONATTAINMENT AREAS DESIGNATED BY GOVERNOR — EXEMPT VEHICLES — CERTIFICATE — MOTOR VEHICLE DEALERS MAY SELL WITH OR WITHOUT INSPECTION, PROCEDURE, PENALTY — FEE — WAIVER — FAILURE TO PASS, RESULT — FUND CREATED, SOURCE, USE AND INVESTMENT OF FUNDS — INSPECTION STATIONS, DUTIES — HIGHWAY PATROL, DUTIES — VIOLATION, PENALTY. — 1. This enactment of the emissions inspection program is a mandate of the United States Congress pursuant to the federal Clean Air Act, as amended, 42 U.S.C. 7401, et seq. In any portion of an area designated by the governor as a nonattainment area, as defined in the federal Clean Air Act, as amended, 42 U.S.C.A. Section 7501, and located within the area described in subsection 1 of section 643.305, RSMo, certain motor vehicles shall be tested and approved prior to sale or transfer and biennially thereafter to determine that the emissions system is functioning within the emission standards as specified by the Missouri air conservation commission and as required to attain the national health standards for air quality. For such biennial testing, any such vehicle manufactured as an even-numbered model year vehicle shall be tested and approved in each even-numbered calendar year and any such vehicle manufactured as an odd-numbered model year vehicle shall be tested and approved in each odd-numbered calendar year. The motor vehicles to be tested shall be all motor vehicles except those specifically exempted pursuant to subdivisions (1) to (3) of subsection 1 of section 307.350 and those exempted pursuant to this section.

2. The provisions of this section shall not apply to:

- (1) Motor vehicles with a manufacturer's gross vehicle weight rating in excess of eight thousand five hundred pounds;
 - (2) Motorcycles and motortricycles;
 - (3) Model year vehicles manufactured twenty-six years or more prior to the current model year;
 - (4) School buses;
 - (5) Diesel-powered vehicles;
 - (6) Motor vehicles registered in the area covered by this section but which are based and operated exclusively in an area of this state not subject to the provisions of this section if the owner of such vehicle presents to the director a sworn affidavit that the vehicle will be based and operated outside the covered area;
 - (7) New and unused motor vehicles, of model years of the current calendar year and of any calendar year within two years of such calendar year, which have an odometer reading of less than six thousand miles at the time of original sale by a motor vehicle manufacturer or licensed motor vehicle dealer to the first user; and
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(8) Motor vehicles owned by a person who resides in a county of the first classification without a charter form of government with a population of less than one hundred thousand inhabitants according to the most recent decennial census who has completed an emission inspection pursuant to section 643.315, RSMo.

Each official inspection station which conducts emissions inspections within the area referred to in subsection 1 of this section shall indicate the gross vehicle weight rating of the motor vehicle on the inspection certificate if the vehicle is exempt from the emissions inspection pursuant to subdivision (1) of this subsection.

3. (1) At the time of sale, a licensed motor vehicle dealer, as defined in section 301.550, RSMo, may choose to sell a motor vehicle subject to the inspection requirements of this section either:

(a) With prior inspection and approval as provided in subdivision (2) of this subsection; or

(b) Without prior inspection and approval as provided in subdivision (3) of this subsection.

(2) If the dealer chooses to sell the vehicle with prior inspection and approval, the dealer shall disclose, in writing, prior to sale, whether the vehicle obtained approval by meeting the emissions standards established pursuant to this section or by obtaining a waiver pursuant to subsection 6 of this section. A vehicle sold pursuant to this subdivision by a licensed motor vehicle dealer shall be inspected and approved within the one hundred twenty days immediately preceding the date of sale, and, for the purpose of registration of such vehicle, such inspection shall be considered timely.

(3) If the dealer chooses to sell the vehicle without prior inspection and approval, the purchaser may return the vehicle within ten days of the date of purchase, provided that the vehicle has no more than one thousand additional miles since the time of sale, if the vehicle fails, upon inspection, to meet the emissions standards specified by the commission and the dealer shall have the vehicle inspected and approved without the option for a waiver of the emissions standard and return the vehicle to the purchaser with a valid emissions certificate and sticker within five working days or the purchaser and dealer may enter into any other mutually acceptable agreement. If the dealer chooses to sell the vehicle without prior inspection and approval, the dealer shall disclose conspicuously on the sales contract and bill of sale that the purchaser has the option to return the vehicle within ten days, provided that the vehicle has no more than one thousand additional miles since the time of sale, to have the dealer repair the vehicle and provide an emissions certificate and sticker within five working days if the vehicle fails, upon inspection, to meet the emissions standards established by the commission, or enter into any mutually acceptable agreement with the dealer. A violation of this subsection shall be an unlawful practice as defined in section 407.020, RSMo. No emissions inspection shall be required pursuant to this section for the sale of any motor vehicle which may be sold without a certificate of inspection and approval, as provided pursuant to subsection 2 of section 307.380.

4. A fee not to exceed twenty-four dollars may be charged for an automobile emissions and air pollution control inspection in order to attain the national health standards for air quality. Such fee shall be conspicuously posted on the premises of each such inspection station. The official emissions inspection station shall issue a certificate of inspection and an approval sticker or seal certifying the emissions system is functioning properly. The certificate or approval issued shall bear the legend: "This cost is mandated by your United States Congress.". No owner shall be charged an additional fee after having corrected defects or unsafe conditions in the automobile's emissions and air pollution control system if the reinspection is completed within twenty consecutive days, excluding Saturdays, Sundays and holidays, and if such follow-up inspection is made by the station making the initial inspection.

5. The air conservation commission shall establish, by rule, a waiver amount which may be lower for older model vehicles and which shall be no greater than seventy-five dollars for model year vehicles prior to 1981 and no greater than two hundred dollars for model year vehicles of 1981 and all subsequent model years.

6. An owner whose vehicle fails upon reinspection to meet the emission standards specified by the Missouri air conservation commission shall be issued a certificate of inspection and an approval sticker or seal by the official emissions inspection station that provided the inspection if the vehicle owner furnishes a complete, signed affidavit satisfying the requirements of this subsection and the cost of emissions repairs and adjustments is equal to or greater than the waiver amount established by the air conservation commission pursuant to this section. The air conservation commission shall establish, by rule, a form and a procedure for verifying that repair and adjustment was performed on a failing vehicle prior to the granting of a waiver and approval. The waiver form established pursuant to this subsection shall be an affidavit requiring:

(1) A statement signed by the repairer that the specified work was done and stating the itemized charges for the work; and

(2) A statement signed by the inspector that an inspection of the vehicle verified, to the extent practical, that the specified work was done.

7. The department of revenue shall require evidence of the inspection and approval required by this section in issuing the motor vehicle annual registration in conformity with the procedure required by sections 307.350 to 307.370.

8. Each emissions inspection station located in the area described in subsection 1 of this section shall purchase from the highway patrol sufficient forms and stickers or other devices to evidence approval of the motor vehicle's emissions control system. In addition, emissions inspection stations may be required to purchase forms for use in automated analyzers from outside vendors of the inspection station's choice. The forms must comply with state regulations.

9. In addition to the fee collected by the superintendent pursuant to subsection 5 of section 307.365, the highway patrol shall collect a fee of seventy-five cents for each automobile emissions certificate issued to the applicable official emissions inspection stations, except that no charge shall be made for certificates of inspection issued to official emissions inspection stations operated by governmental entities. All fees collected by the superintendent pursuant to this section shall be deposited in the state treasury to the credit of the "Missouri Air Pollution Control Fund", which is hereby created.

10. The moneys collected and deposited in the Missouri air pollution control fund pursuant to this section shall be allocated on an equal basis to the Missouri state highway patrol and the Missouri department of natural resources, air pollution control program, and shall be expended subject to appropriation by the general assembly for the administration and enforcement of sections 307.350 to 307.390. The unexpended balance in the fund at the end of each appropriation period shall not be transferred to the general revenue fund, except as directed by the general assembly by appropriation, and the provisions of section 33.080, RSMo, relating to the transfer of funds to the general revenue fund at the end of the biennium, shall not apply to this fund. The moneys in the fund shall be invested by the treasurer as provided by law, and the interest shall be credited to the fund.

11. The superintendent of the Missouri state highway patrol shall issue such rules and regulations as are necessary to determine whether a motor vehicle's emissions control system is operating as required by subsection 1 of this section, and the superintendent and the state highways and transportation commission shall use their best efforts to seek federal funds from which reimbursement grants may be made to those official inspection stations which acquire and use the necessary testing equipment which will be required to perform the tests required by the provisions of this section.

12. The provisions of this section shall not apply in any county for any time period during which the air conservation commission has established a motor vehicle emissions inspection program pursuant to sections 643.300 to 643.355, RSMo, for such county, except where motor vehicle owners have the option of biennial testing pursuant to chapter 643, RSMo. In counties where such option is available, the emissions inspection may be conducted in stations conducting only an emissions inspection under contract to the state.

13. Notwithstanding the provisions of section 307.390, violation of this section shall be deemed a class C misdemeanor.]

SECTION B. EFFECTIVE DATE. — The repeal of section 307.366 and the repeal and reenactment of sections 33.080, 301.190, 301.800, 643.300, 643.305, 643.310, 643.315, 643.320, 643.330, 643.335, and 643.350 shall become effective September 1, 2007.

Approved June 29, 2006

SB 612 [SB 612]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes the conveyance of property owned by the state in St. Francois County to the Farmington American Legion Post 416

AN ACT to authorize the conveyance of property owned by the state in St. Francois County to the Farmington American Legion Post 416, with an emergency clause.

SECTION

1. Governor authorized to convey real property in St. Francois County to Farmington American Legion Post 416.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. GOVERNOR AUTHORIZED TO CONVEY REAL PROPERTY IN ST. FRANCOIS COUNTY TO FARMINGTON AMERICAN LEGION POST 416. — **1.** The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in St. Francois County to the Farmington American Legion Post 416. The property to be conveyed is more particularly described as follows:

Part of Lots 75 and 76, and Wm. Alexander 300 ac Tract, all in U.S. Survey #2969, Township 35 North, Range 5 East, St. Francois County, Missouri.

Commencing at an old iron pin marking the Northwest corner of Lot 62 of F. W. Rohlands subdivision of U.S. Survey #2969, Township 35 North, Range 5 East, thence South 13°21'30" West 1138.65' feet to a point at the intersection of the South right-of-way (ROW) of Missouri Route "W" and the approximate center of a small creek, being the point of beginning of the following described tract; thence with and down said creek South 12°04'09" East 58.82' feet to a set iron rod; thence with said creek South 14°41'36" West 318.63' feet to a set iron rod (capped LS1621); thence South 48°47'06" West 53.62' feet to a capped iron rod (capped LS1621); thence South 32°50'04" West 184.21' feet to a point; thence South 00°27'18" East 58.77' feet to a point, thence South 56°51'31" West 103.27' feet set iron rod (capped LS1621); thence South 23°27'32" West 21.27' feet to a point, said point being located distant North 24°50'24" West 20.00' feet from a found old iron pipe being the Southeast corner of a 4.59 acre tract known as the "United States Army Reserve Center"; thence departing said creek along the east line of the aforementioned tract North 24°50'24" West 479.66' feet to a found ROW marker on the South ROW of the aforementioned Route "W"; thence along said ROW North 51°03'24" East 102.36' feet to found ROW marker; thence North 65°11'39" East 440.92' feet to a

point; thence South 24° 48' 21" East 5.00' feet to a point; thence North 65° 11' 39" East 25.07" feet to the point of beginning and containing 4.10 Acres more or less except that part previously conveyed to the American Legion Post 416 and the Missouri Department of Transportation in Book No. 1309 pages 109-110, Book No. 1454 page 1296 and Book No. 1540 page 1326.

2. The commissioner of administration shall set the terms and conditions for the sale as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the sale.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION B. EMERGENCY CLAUSE. — Because of the necessity to expedite the construction of a Veterans' Administration outpatient clinic, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved June 21, 2006

SB 614 [HCS SCS SB 614]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates an income tax credit for contributions to residential treatment agencies.

AN ACT to repeal section 135.550, RSMo, and to enact in lieu thereof two new sections relating to residential treatment agency tax credits.

SECTION

A. Enacting clause.

135.550. Definitions — tax credit, amount — limitations — director of social services determinations, classification of shelters — effective date.

135.1142. Citation of law — definitions — tax credit, amount — claim application — limitation — transferrability of credit — rulemaking authority — sunset provision.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 135.550, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 135.550 and 135.1142, to read as follows:

135.550. DEFINITIONS — TAX CREDIT, AMOUNT — LIMITATIONS — DIRECTOR OF SOCIAL SERVICES DETERMINATIONS, CLASSIFICATION OF SHELTERS — EFFECTIVE DATE. —

1. As used in this section, the following terms shall mean:

(1) "Contribution", a donation of cash, stock, bonds or other marketable securities, or real property;

(2) "Shelter for victims of domestic violence", a facility located in this state which meets the definition of a shelter for victims of domestic violence pursuant to section 455.200, RSMo, and which meets the requirements of section 455.220, RSMo;

(3) "State tax liability", in the case of a business taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, RSMo, chapter 147, RSMo, chapter 148, RSMo, and chapter 153, RSMo, exclusive of the provisions relating to the withholding of tax

as provided for in sections 143.191 to 143.265, RSMo, and related provisions, and in the case of an individual taxpayer, any liability incurred by such taxpayer pursuant to the provisions of chapter 143, RSMo;

(4) "Taxpayer", a person, firm, a partner in a firm, corporation or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed by the provisions of chapter 143, RSMo, or a corporation subject to the annual corporation franchise tax imposed by the provisions of chapter 147, RSMo, or an insurance company paying an annual tax on its gross premium receipts in this state, or other financial institution paying taxes to the state of Missouri or any political subdivision of this state pursuant to the provisions of chapter 148, RSMo, or an express company which pays an annual tax on its gross receipts in this state pursuant to chapter 153, RSMo, or an individual subject to the state income tax imposed by the provisions of chapter 143, RSMo.

2. A taxpayer shall be allowed to claim a tax credit against the taxpayer's state tax liability, in an amount equal to fifty percent of the amount such taxpayer contributed to a shelter for victims of domestic violence.

3. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the taxable year that the credit is claimed, and such taxpayer shall not be allowed to claim a tax credit in excess of fifty thousand dollars per taxable year. However, any tax credit that cannot be claimed in the taxable year the contribution was made may be carried over to the next four succeeding taxable years until the full credit has been claimed.

4. Except for any excess credit which is carried over pursuant to subsection 3 of this section, a taxpayer shall not be allowed to claim a tax credit unless the total amount of such taxpayer's contribution or contributions to a shelter or shelters for victims of domestic violence in such taxpayer's taxable year has a value of at least one hundred dollars.

5. The director of [public safety] **the department of social services** shall determine, at least annually, which facilities in this state may be classified as shelters for victims of domestic violence. The director of [public safety] **the department of social services** may require of a facility seeking to be classified as a shelter for victims of domestic violence whatever information is reasonably necessary to make such a determination. The director of [public safety] **the department of social services** shall classify a facility as a shelter for victims of domestic violence if such facility meets the definition set forth in subsection 1 of this section.

6. The director of [public safety] **the department of social services** shall establish a procedure by which a taxpayer can determine if a facility has been classified as a shelter for victims of domestic violence, and by which such taxpayer can then contribute to such shelter for victims of domestic violence and claim a tax credit. Shelters for victims of domestic violence shall be permitted to decline a contribution from a taxpayer. The cumulative amount of tax credits which may be claimed by all the taxpayers contributing to shelters for victims of domestic violence in any one fiscal year shall not exceed two million dollars.

7. The director of [public safety] **the department of social services** shall establish a procedure by which, from the beginning of the fiscal year until some point in time later in the fiscal year to be determined by the director of [public safety] **the department of social services**, the cumulative amount of tax credits are equally apportioned among all facilities classified as shelters for victims of domestic violence. If a shelter for victims of domestic violence fails to use all, or some percentage to be determined by the director of [public safety] **the department of social services**, of its apportioned tax credits during this predetermined period of time, the director of [public safety] **the department of social services** may reapportion these unused tax credits to those shelters for victims of domestic violence that have used all, or some percentage to be determined by the director of [public safety] **the department of social services**, of their apportioned tax credits during this predetermined period of time. The director of [public safety] **the department of social services** may establish more than one period of time and reapportion more than once during each fiscal year. To the maximum extent possible, the director of [public safety] **the department of social services** shall establish the procedure described in this

subsection in such a manner as to ensure that taxpayers can claim all the tax credits possible up to the cumulative amount of tax credits available for the fiscal year.

8. This section shall become effective January 1, 2000, and shall apply to all tax years after December 31, 1999.

135.1142. CITATION OF LAW — DEFINITIONS — TAX CREDIT, AMOUNT — CLAIM APPLICATION — LIMITATION — TRANSFERRABILITY OF CREDIT — RULEMAKING AUTHORITY — SUNSET PROVISION. — 1. This section shall be known and may be cited as the "Residential Treatment Agency Tax Credit Act".

2. As used in this section, the following terms mean:

(1) "Certificate", a tax credit certificate issued under this section;

(2) "Department", the Missouri department of social services;

(3) "Eligible monetary donation", donations received from a taxpayer by an agency that are used solely to provide direct care services to children who are residents of this state. For purposes of this section, direct care services include but are not limited to increasing the quality of care and service for children through improved employee compensation and training;

(4) "Qualified residential treatment agency" or "agency", a residential care facility that is licensed under section 210.484, RSMo, accredited by the Council on Accreditation (COA), the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or the Commission on Accreditation of Rehabilitation Facilities (CARF), and is under contract with the Missouri department of social services to provide treatment services for children who are residents or wards of residents of this state, and that receives eligible monetary donations. Any agency that operates more than one facility or at more than one location shall be eligible for the tax credit under this section only for any eligible monetary donations made to facilities or locations of the agency which are licensed and accredited;

(5) "Taxpayer", any of the following individuals or entities who make eligible monetary donations to an agency:

(a) A person, firm, partner in a firm, corporation, or a shareholder in an S corporation doing business in the state of Missouri and subject to the state income tax imposed in chapter 143, RSMo;

(b) A corporation subject to the annual corporation franchise tax imposed in chapter 147, RSMo;

(c) An insurance company paying an annual tax on its gross premium receipts in this state;

(d) Any other financial institution paying taxes to the state of Missouri or any political subdivision of this state under chapter 148, RSMo;

(e) An individual subject to the state income tax imposed in chapter 143, RSMo.

3. For all taxable years beginning on or after January 1, 2007, any taxpayer shall be allowed a credit against the taxes otherwise due under chapter 147, 148, or 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, in an amount equal to fifty percent of the amount of an eligible monetary donation, subject to the restrictions in this section. The amount of the tax credit claimed shall not exceed the amount of the taxpayer's state income tax liability in the tax year for which the credit is claimed. Any amount of credit that the taxpayer is prohibited by this section from claiming in a tax year shall not be refundable, but may be carried forward to any of the taxpayer's four subsequent taxable years.

4. To claim the credit authorized in this section, an agency may submit to the department an application for the tax credit authorized by this section on behalf of taxpayers. The department shall verify that the agency has submitted the following items accurately and completely:

(1) A valid application in the form and format required by the department;

(2) A statement attesting to the eligible monetary donation received, which shall include the name and taxpayer identification number of the individual making the eligible monetary donation, the amount of the eligible monetary donation, and the date the eligible monetary donation was received by the agency; and

(3) Payment from the agency equal to the value of the tax credit for which application is made.

If the agency applying for the tax credit meets all criteria required by this subsection, the department shall issue a certificate in the appropriate amount.

5. An agency may apply for tax credits in an aggregate amount that does not exceed forty percent of the payments made by the department to the agency in the preceding twelve months.

6. Tax credits issued under this section may be assigned, transferred, sold, or otherwise conveyed, and the new owner of the tax credit shall have the same rights in the credit as the taxpayer. Whenever a certificate is assigned, transferred, sold, or otherwise conveyed, a notarized endorsement shall be filed with the department specifying the name and address of the new owner of the tax credit or the value of the credit.

7. The department shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

8. Under section 23.253, RSMo, of the Missouri Sunset Act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

Approved June 12, 2006

SB 616 [CCS HCS SCS SB 616]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Prescribes requirements for assisted living facilities

AN ACT to repeal sections 198.006, 198.073, and 198.087, RSMo, and to enact in lieu thereof five new sections relating to assisted living facilities.

SECTION

A. Enacting clause.

198.005. Assisted living facilities, statutory references to residential care facilities to be changed by revisor of statutes.

198.006. Definitions.

- 198.073. Persons eligible for care in residential care facility or assisted living facility — assisted living facility licenses granted, requirements — facility admission, requirements, disclosures — automatic sprinkler system required, when — rulemaking authority.
- 198.087. Uniformity of application of regulation standards, department's duties.
1. Medicaid payment system for assisted living facilities to be implemented — options.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 198.006, 198.073, and 198.087, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 198.005, 198.006, 198.073, 198.087, and 1, to read as follows:

198.005. ASSISTED LIVING FACILITIES, STATUTORY REFERENCES TO RESIDENTIAL CARE FACILITIES TO BE CHANGED BY REVISOR OF STATUTES. — The term "residential care facility I" shall be referred to as a "residential care facility", and the term "residential care facility II" shall be referred to as "assisted living facility". The revisor of statutes shall make the appropriate changes to all such references in the revised statutes, except that references to residential care facilities as defined in section 210.481, RSMo, or residential facilities licensed by the department of mental health shall not be changed.

198.006. DEFINITIONS. — As used in sections 198.003 to 198.186, unless the context clearly indicates otherwise, the following terms mean:

- (1) "Abuse", the infliction of physical, sexual, or emotional injury or harm;
 - (2) "Activities of daily living" or "ADL", one or more of the following activities of daily living:
 - (a) Eating;
 - (b) Dressing;
 - (c) Bathing;
 - (d) Toileting;
 - (e) Transferring; and
 - (f) Walking;
 - (3) "Administrator", the person who is in general administrative charge of a facility;
 - [(3)] (4) "Affiliate":
 - (a) With respect to a partnership, each partner thereof;
 - (b) With respect to a limited partnership, the general partner and each limited partner with an interest of five percent or more in the limited partnership;
 - (c) With respect to a corporation, each person who owns, holds or has the power to vote five percent or more of any class of securities issued by the corporation, and each officer and director;
 - (d) With respect to a natural person, any parent, child, sibling, or spouse of that person;
 - (5) "Appropriately trained and qualified individual", an individual who is licensed or registered with the state of Missouri in a health care related field or an individual with a degree in a health care related field or an individual with a degree in a health care, social services, or human services field or an individual licensed under chapter 344, RSMo, and who has received facility orientation training under 19 CSR 30-86042(18), and dementia training under section 660.050, RSMo, and twenty-four hours of additional training, approved by the department, consisting of definition and assessment of activities of daily living, assessment of cognitive ability, service planning, and interview skills;
 - (6) "Assisted living facility", any premises, other than a residential care facility, intermediate care facility, or skilled nursing facility that is utilized by its owner, operator, or manager to provide twenty-four hour care and services and protective oversight to three or more residents who are provided with shelter, board, and who may need and are provided with the following:
-

(a) Assistance with any activities of daily living and any instrumental activities of daily living;

(b) Storage, distribution, or administration of medications; and

(c) Supervision of health care under the direction of a licensed physician, provided that such services are consistent with a social model of care;

Such term shall not include a facility where all of the residents are related within the fourth degree of consanguinity or affinity to the owner, operator, or manager of the facility;

(7) "Community based assessment", documented basic information and analysis provided by appropriately trained and qualified individuals describing an individual's abilities and needs in activities of daily living, instrumental activities of daily living, vision/hearing, nutrition, social participation and support, and cognitive functioning using an assessment tool approved by the department of health and senior services, that is designed for community based services and that is not the nursing home minimum data set;

(8) "Dementia", a general term for the loss of thinking, remembering, and reasoning so severe that it interferes with an individual's daily functioning, and may cause symptoms that include changes in personality, mood, and behavior;

[(4)] (9) "Department", the Missouri department of health and senior services;

[(5)] (10) "Emergency", a situation, physical condition or one or more practices, methods or operations which presents imminent danger of death or serious physical or mental harm to residents of a facility;

[(6)] (11) "Facility", any residential care facility [I, residential care facility II, immediate], **assisted living facility**, **intermediate** care facility, or skilled nursing facility;

[(7)] (12) "Health care provider", any person providing health care services or goods to residents and who receives funds in payment for such goods or services under Medicaid;

(13) "Instrumental activities of daily living", or "IADL", one or more of the following activities:

(a) Preparing meals;

(b) Shopping for personal items;

(c) Medication management;

(d) Managing money;

(e) Using the telephone;

(f) Housework; and

(g) Transportation ability;

[(8)] (14) "Intermediate care facility", any premises, other than a residential care facility [I, residential care facility II], **assisted living facility**, or skilled nursing facility, which is utilized by its owner, operator, or manager to provide twenty-four hour accommodation, board, personal care, and basic health and nursing care services under the daily supervision of a licensed nurse and under the direction of a licensed physician to three or more residents dependent for care and supervision and who are not related within the fourth degree of consanguinity or affinity to the owner, operator or manager of the facility;

[(9)] (15) "Manager", any person other than the administrator of a facility who contracts or otherwise agrees with an owner or operator to supervise the general operation of a facility, providing such services as hiring and training personnel, purchasing supplies, keeping financial records, and making reports;

[(10)] (16) "Medicaid", medical assistance under section 208.151, RSMo, et seq., in compliance with Title XIX, Public Law 89-97, 1965 amendments to the Social Security Act (42 U.S.C. 301 et seq.), as amended;

[(11)] (17) "Neglect", the failure to provide, by those responsible for the care, custody, and control of a resident in a facility, the services which are reasonable and necessary to maintain the physical and mental health of the resident, when such failure presents either an imminent danger

to the health, safety or welfare of the resident or a substantial probability that death or serious physical harm would result;

[(12)] (18) "Operator", any person licensed or required to be licensed under the provisions of sections 198.003 to 198.096 in order to establish, conduct or maintain a facility;

[(13)] (19) "Owner", any person who owns an interest of five percent or more in:

(a) The land on which any facility is located;

(b) The structure or structures in which any facility is located;

(c) Any mortgage, contract for deed, or other obligation secured in whole or in part by the land or structure in or on which a facility is located; or

(d) Any lease or sublease of the land or structure in or on which a facility is located.

"Owner" does not include a holder of a debenture or bond purchased at public issue nor does it include any regulated lender unless the entity or person directly or through a subsidiary operates a facility;

[(14)] (20) "Protective oversight", an awareness twenty-four hours a day of the location of a resident, the ability to intervene on behalf of the resident, the supervision of nutrition, medication, or actual provisions of care, and the responsibility for the welfare of the resident, except where the resident is on voluntary leave;

[(15)] (21) "Resident", a person who by reason of aging, illness, disease, or physical or mental infirmity receives or requires care and services furnished by a facility and who resides or boards in or is otherwise kept, cared for, treated or accommodated in such facility for a period exceeding twenty-four consecutive hours;

[(16)] (22) "Residential care facility [I]", any premises, other than [a residential care facility II] **an assisted living facility**, intermediate care facility, or skilled nursing facility, which is utilized by its owner, operator or manager to provide twenty-four hour care to three or more residents, who are not related within the fourth degree of consanguinity or affinity to the owner, operator, or manager of the facility and who need or are provided with shelter, board, and with protective oversight, which may include storage and distribution or administration of medications and care during short-term illness or recuperation, **except that, for purposes of receiving supplemental welfare assistance payments under section 208.030, RSMo, only any residential care facility licensed as a residential care facility II immediately prior to the effective date of section 198.073 and that continues to meet such licensure requirements for a residential care facility II licensed immediately prior to the effective date of section 198.073 shall continue to receive after the effective date of section 198.073 the payment amount allocated immediately prior to the effective date of section 198.073 for a residential care facility II under section 208.030;**

[(17)] "Residential care facility II", any premises, other than a residential care facility I, an intermediate care facility, or a skilled nursing facility, which is utilized by its owner, operator or manager to provide twenty-four hour accommodation, board, and care to three or more residents who are not related within the fourth degree of consanguinity or affinity to the owner, operator, or manager of the facility, and who need or are provided with supervision of diets, assistance in personal care, storage and distribution or administration of medications, supervision of health care under the direction of a licensed physician, and protective oversight, including care during short-term illness or recuperation;

(18)] (23) "Skilled nursing facility", any premises, other than a residential care facility [I, a residential care facility II], **an assisted living facility**, or an intermediate care facility, which is utilized by its owner, operator or manager to provide for twenty-four hour accommodation, board and skilled nursing care and treatment services to at least three residents who are not related within the fourth degree of consanguinity or affinity to the owner, operator or manager of the facility. Skilled nursing care and treatment services are those services commonly performed by or under the supervision of a registered professional nurse for individuals requiring twenty-four hours a day care by licensed nursing personnel including acts of observation, care and counsel of the aged, ill, injured or infirm, the administration of medications and treatments as prescribed

by a licensed physician or dentist, and other nursing functions requiring substantial specialized judgment and skill;

(24) **"Social model of care", long-term care services based on the abilities, desires, and functional needs of the individual delivered in a setting that is more home-like than institutional and promotes the dignity, individuality, privacy, independence, and autonomy of the individual. Any facility licensed as a residential care facility II prior to August 28, 2006, shall qualify as being more homelike than institutional with respect to construction and physical plant standards;**

[(19)] (25) "Vendor", any person selling goods or services to a health care provider;

[(20)] (26) "Voluntary leave", an off-premise leave initiated by:

(a) A resident that has not been declared mentally incompetent or incapacitated by a court;

or

(b) A legal guardian of a resident that has been declared mentally incompetent or incapacitated by a court.

198.073. PERSONS ELIGIBLE FOR CARE IN RESIDENTIAL CARE FACILITY OR ASSISTED LIVING FACILITY — ASSISTED LIVING FACILITY LICENSES GRANTED, REQUIREMENTS — FACILITY ADMISSION, REQUIREMENTS, DISCLOSURES — AUTOMATIC SPRINKLER SYSTEM REQUIRED, WHEN — RULEMAKING AUTHORITY. — 1. [Except as provided in subsection 3 of this section.] A residential care facility [II or residential care facility I] shall admit or retain only those persons who are capable mentally and physically of negotiating a normal path to safety using assistive devices or aids when necessary, and who may need assisted personal care within the limitations of such facilities, and who do not require hospitalization or skilled nursing care.

2. Notwithstanding the provisions of subsection [3] 1 of this section, those persons previously qualified for residence who may have a temporary period of incapacity due to illness, surgery, or injury, which period does not exceed forty-five days, may be allowed to remain in a residential care facility [II or residential care facility I] **or assisted living facility** if approved by a physician.

[3. A residential care facility II may admit or continue to care for those persons who are physically capable of negotiating a normal path to safety using assistive devices or aids when necessary but are mentally incapable of negotiating such a path to safety that have been diagnosed with Alzheimer's disease or Alzheimer's related dementia, if the following requirements are met:

(1) A family member or legal representative of the resident, in consultation with the resident's primary physician and the facility, determines that the facility can meet the needs of the resident. The facility shall document the decision regarding continued placement in the facility through written verification by the family member, physician and the facility representative;

(2) The facility is equipped with an automatic sprinkler system, in compliance with National Fire Protection Association Code 13 or National Fire Protection Association Code 13R, and an automated fire door system and smoke alarms in compliance with 13-3.4 of the 1997 Life Safety Codes for Existing Health Care Occupancy;

(3) In a multilevel facility, residents who are mentally incapable of negotiating a pathway to safety are housed only on the ground floor;

(4) The facility shall take necessary measures to provide residents with the opportunity to explore the facility and, if appropriate, its grounds;

(5) The facility shall be staffed twenty-four hours a day by the appropriate number and type of personnel necessary for the proper care of residents and upkeep of the facility. In meeting such staffing requirements, every resident who is mentally incapable of negotiating a pathway to safety shall count as three residents. All on-duty staff of the facility shall, at all times, be awake, dressed and prepared to assist residents in case of emergency;

(6) Every resident mentally incapable of negotiating a pathway to safety in the facility shall be assessed by a licensed professional, as defined in sections 334.010 to 334.265, RSMo, chapter

335, RSMo, or chapter 337, RSMo, with an assessment instrument utilized by the division of aging known as the minimum data set used for assessing residents of skilled nursing facilities:

- (a) Upon admission;
- (b) At least semiannually; and
- (c) When a significant change has occurred in the resident's condition which may require additional services;

(7) Based on the assessment in subdivision (6) of this subsection, a licensed professional, as defined in sections 334.010 to 334.265, RSMo, chapter 335, RSMo, or chapter 337, RSMo, shall develop an individualized service plan for every resident who is mentally incapable of negotiating a pathway to safety. Such individualized service plan shall be implemented by the facility's staff to meet the specific needs of the resident;

(8) Every facility shall use a personal electronic monitoring device for any resident whose physician recommends the use of such device;

(9) All facility personnel who will provide direct care to residents who are mentally incapable of negotiating a pathway to safety shall receive at least twenty-four hours of training within the first thirty days of employment. At least twelve hours of such training shall be classroom instruction, with six classroom instruction hours and two on-the-job training hours related to the special needs, care and safety of residents with dementia;

(10) All personnel of the facility, regardless of whether such personnel provides direct care to residents who cannot negotiate a pathway to safety, shall receive on a quarterly basis at least four hours of in-service training, with at least two such hours relating to the care and safety of residents who are mentally incapable of negotiating a pathway to safety;

(11) Every facility shall make available and implement self-care, productive and leisure activity programs for persons with dementia which maximize and encourage the resident's optimal functional ability;

(12) Every facility shall develop and implement a plan to protect the rights, privacy and safety of all residents and to prevent the financial exploitation of all residents; and

(13) A licensee of any licensed residential care facility or any residential care facility shall ensure that its facility does not accept or retain a resident who is mentally incapable of negotiating a normal pathway to safety using assistive devices and aids that:

- (a) Has exhibited behaviors which indicate such resident is a danger to self or others;
- (b) Is at constant risk of elopement;
- (c) Requires physical restraint;
- (d) Requires chemical restraint. As used in this subdivision, the following terms mean:
 - a. "Chemical restraint", a psychopharmacologic drug that is used for discipline or convenience and not required to treat medical symptoms;
 - b. "Convenience", any action taken by the facility to control resident behavior or maintain residents with a lesser amount of effort by the facility and not in the resident's best interests;
 - c. "Discipline", any action taken by the facility for the purpose of punishing or penalizing residents;
- (e) Requires skilled nursing services as defined in subdivision (17) of section 198.003 for which the facility is not licensed or able to provide;
- (f) Requires more than one person to simultaneously physically assist the resident with any activity of daily living, with the exception of bathing;
- (g) Is bed-bound or chair-bound due to a debilitating or chronic condition.

4. The facility shall not care for any person unless such facility is able to provide appropriate services for and meet the needs of such person.

5. Nothing in this chapter shall prevent a facility from discharging a resident who is a danger to himself or herself, or to others.

6. The training requirements established in subdivisions (9) and (10) of subsection 3 of this section shall fully satisfy the training requirements for the program described in subdivision (18) of subsection 1 of section 208.152, RSMo.

7. The division of aging shall promulgate rules to ensure compliance with this section and to sanction facilities that fail to comply with this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.]

3. Any facility licensed as a residential care facility II on August 27, 2006, shall be granted a license as an assisted living facility, as defined in section 198.006, on August 28, 2006, regardless of the laws, rules, and regulations for licensure as an assisted living facility as long as such facility continues to meet all laws, rules, and regulations that were in place on August 27, 2006, for a residential care facility II. At such time that the average total reimbursement, not including residents' cost of living increases in their benefits from the Social Security Administration after the effective date of this act, for the care of persons eligible for Medicaid in an assisted living facility is equal to or exceeds forty-one dollars per day, all facilities with a license as an assisted living facility shall meet all laws, rules, and regulations for licensure as an assisted living facility. Nothing in this section shall be construed to allow any facility that has not met the requirements of subsections 4 and 6 of this section to care for any individual with a physical, cognitive, or other impairment that prevents the individual from safely evacuating the facility.

4. Any facility licensed as an assisted living facility, as defined in section 198.006, except for facilities licensed under subsection 3 of this section, may admit or retain an individual for residency in an assisted living facility only if the individual does not require hospitalization or skilled nursing placement, and only if the facility:

(1) Provides for or coordinates oversight and services to meet the needs of the resident as documented in a written contract signed by the resident, or legal representative of the resident;

(2) Has twenty-four hour staff appropriate in numbers and with appropriate skills to provide such services;

(3) Has a written plan for the protection of all residents in the event of a disaster, including keeping residents in place, evacuating residents to areas of refuge, evacuating residents from the building if necessary, or other methods of protection based on the disaster and the individual building design;

(4) Completes a pre move-in screening with participation of the prospective resident;

(5) Completes for each resident a community based assessment, as defined in subdivision (7) of section 198.006:

(a) Upon admission;

(b) At least semiannually; and

(c) Whenever a significant change has occurred in the resident's condition which may require a change in services;

(6) Based on the assessment in subsection 7 of this section and subdivision (5) of this subsection, develops an individualized service plan in partnership with the resident, or legal representative of the resident, that outlines the needs and preferences of the resident. The individualized service plan will be reviewed with the resident, or legal representative of the resident at least annually, or when there is a significant change in the resident's condition which may require a change in services. The signatures of an authorized representative of the facility and the resident, or the resident's legal representative shall be contained on the individualized service plan to acknowledge that the service plan has been reviewed and understood by the resident or legal representative;

(7) Makes available and implements self-care, productive and leisure activity programs which maximize and encourage the resident's optimal functional ability;

(8) Ensures that the residence does not accept or retain a resident who:

(a) Has exhibited behaviors that present a reasonable likelihood of serious harm to himself or herself or others;

(b) Requires physical restraint;

(c) Requires chemical restraint. As used in this paragraph, the following terms mean:

a. "Chemical restraint", a psychopharmacologic drug that is used for discipline or convenience and not required to treat medical symptoms;

b. "Convenience", any action taken by the facility to control resident behavior or maintain residents with a lesser amount of effort by the facility and not in the resident's best interest;

c. "Discipline", any action taken by the facility for the purpose of punishing or penalizing residents;

(d) Requires skilled nursing services as defined in subdivision (23) of section 198.006 for which the facility is not licensed or able to provide;

(e) Requires more than one person to simultaneously physically assist the resident with any activity of daily living, with the exception of bathing and transferring;

(f) Is bed-bound or similarly immobilized due to a debilitating or chronic condition; and

(9) Develops and implements a plan to protect the rights, privacy, and safety of all residents and to protect against the financial exploitation of all residents;

(10) Complies with the training requirements of subsection 8 of section 660.050, RSMo.

5. Exceptions to paragraphs (d) to (f) of subdivision (8) of subsection 4 of this section shall be made for residents on hospice, provided the resident, designated representative, or both, and the assisted living provider, physician, and licensed hospice provider all agree that such program of care is appropriate for the resident.

6. If an assisted living facility accepts or retains any individual with a physical, cognitive, or other impairment that prevents the individual from safely evacuating the facility with minimal assistance, the facility shall:

(1) Have sufficient staff present and awake twenty-four hours a day to assist in the evacuation;

(2) Include an individualized evacuation plan in the service plan of the resident; and

(3) Be equipped with an automatic sprinkler system in compliance with National Fire Protection Association Code 13 or National Fire Protection Association Code 13R, and an automated fire door system and smoke alarms in compliance with 13-3.4 of the 1997 Life Safety Codes for Existing Health Care Occupancy, or for multilevel facilities, be equipped with an automatic sprinkler system in compliance with National Fire Protection Association Code 13 and each floor shall be divided into at least two smoke sections and fire alarms in compliance with 13-3.4 of the 1997 Life Safety Codes for Existing Health Care Occupancy;

(4) Take necessary measures to provide residents with the opportunity to explore the facility and, if appropriate, its grounds; and

(5) Use a personal electronic monitoring device for any resident whose physician recommends the use of such device.

7. An individual admitted or readmitted to the facility shall have an admission physical examination by a licensed physician. Documentation should be obtained prior to admission but shall be on file not later than ten days after admission and shall contain information regarding the individual's current medical status and any special orders or procedures that should be followed. If the individual is admitted directly from a hospital

or another long-term care facility and is accompanied on admission by a report that reflects his or her current medical status, an admission physical shall not be required.

8. Facilities licensed as an assisted living facility shall disclose to a prospective resident, or legal representative of the resident information regarding the services the facility is able to provide or coordinate, the costs of such services to the resident, and the resident conditions that will require discharge or transfer, including the provisions of subdivision (8) of subsection 4 of this section.

9. After January 1, 2008, no entity shall hold itself out as an assisted living facility or advertise itself as an assisted living facility without obtaining a license from the department to operate as an assisted living facility.

Any residential care facility II licensed under this chapter that does not use the term "assisted living" in the name of its licensed facility on or before May 1, 2006, shall be prohibited from using such term after August 28, 2006, unless such facility meets the requirements for an assisted living facility in subsection 4 of this section.

10. For assisted living facilities built after August 28, 2006, or which have major renovations after August 27, 2006, such single-level assisted living facilities or the major renovation portion shall be equipped with an automatic sprinkler system in compliance with National Fire Protection Association Code 13 or 13R of the 1997 Life Safety Codes for Existing Health Care Occupancy, or for such multilevel assisted living facilities or the major renovation portion shall be equipped with an automatic sprinkler system in compliance with National Fire Protection Association Code 13 and each floor shall be divided into two smoke sections and fire alarms in compliance with 13-3.4 of the 1997 Life Safety Codes for Existing Health Care Occupancy. Existing facilities seeking to be licensed as assisted living facilities shall meet the fire safety standards for residential care facilities II in effect on August 28, 2006, unless such facilities seek to admit one or more individuals with physical, cognitive, or other impairments that prevent the individuals from safely evacuating the facility with minimal assistance, in which case such facilities shall comply with subsection 6 of this section.

11. The department of health and senior services shall promulgate rules to ensure compliance with this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

198.087. UNIFORMITY OF APPLICATION OF REGULATION STANDARDS, DEPARTMENT'S DUTIES. — To ensure uniformity of application of regulation standards in long-term care facilities throughout the state, the department of social services shall:

(1) Evaluate the requirements for inspectors or surveyors of facilities, including the eligibility, training and testing requirements for the position. Based on the evaluation, the department shall develop and implement additional training and knowledge standards for inspectors and surveyors;

(2) Periodically evaluate the performance of the inspectors or surveyors regionally and statewide to identify any deviations or inconsistencies in regulation application. At a minimum, the Missouri on-site surveyor evaluation process, and the number and type of actions overturned by the informal dispute resolution process and formal appeal shall be used in the evaluation. Based on such evaluation, the department shall develop standards and a retraining process for the region, state, or individual inspector or surveyor, as needed;

(3) In addition to the provisions of subdivisions (1) and (2) of this section, the department shall develop a single uniform comprehensive and mandatory course of instruction for inspectors/surveyors on the practical application of enforcement of statutes, rules and regulations. Such course shall also be open to attendance by administrators and staff of facilities licensed pursuant to this chapter;

(4) With the full cooperation of and in conjunction with the department of health and senior services, evaluate the implementation and compliance of the provisions of subdivision (3) of subsection 1 of section 198.012 in which rules, requirements, regulations and standards pursuant to section 197.080, RSMo, for residential care facilities II, intermediate care facilities and skilled nursing facilities attached to an acute care hospital are consistent with the intent of this chapter. A report of the differences found in the evaluation conducted pursuant to this subdivision shall be made jointly by the departments of social services and health to the governor and members of the general assembly by January 1, [2000] **2008**; and

(5) With the full cooperation and in conjunction with the department of health and senior services, develop rules and regulations requiring the exchange of information, including regulatory violations, between the departments to ensure the protection of individuals who are served by health care providers regulated by either the department of health and senior services or the department of social services.

SECTION 1. MEDICAID PAYMENT SYSTEM FOR ASSISTED LIVING FACILITIES TO BE IMPE-MENTED — OPTIONS — The department of social services, division of medical services and the department of health and senior services, division of senior and disability services shall work together to implement a new Medicaid payment system for assisted living facilities defined in section 198.006, RSMo. The departments shall look at possible options, including but not limited to federal Medicaid waivers, state plan amendments, and provisions of the federal Deficit Reduction Act of 2005 that will allow a tiered rate system via a bundled monthly rate for all services not included in the room and board function of the facility, including but not limited to: adult day care/socialization activities, escort services, essential shopping, health maintenance activities, housekeeping activities, meal preparation, laundry services, medication assistance (set-up and administration), personal care services, assistance with activities of daily living and instrumental activities of daily living, transportation services, nursing supervision, health promotion and exercise programming, emergency call systems, incontinence supplies, and companion services. The amount of the personal funds allowance for the Medicaid recipient residing in an assisted living facility shall include enough money for over-the-counter medications and co-payments for Medicaid and Medicare Part D services. The departments shall work with assisted living facility provider groups in developing this new payment system. The department of social services shall submit all necessary applications for implementing this new system singularly or within a multi-service state Medicaid waiver application to the secretary of the federal Department of Health and Human Services by July 1, 2007.

Approved July 10, 2006

SB 618 [SB 618]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Provides that electronic access cards may be issued to custodial parents for disbursement of child support payments

AN ACT to repeal section 454.530, RSMo, and to enact in lieu thereof one new section relating to child support payments.

SECTION

A. Enacting clause.

454.530. Family support payment center established by the division for child support orders — disbursement of child support — business day, defined — electronic funds transfer system.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 454.530, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 454.530, to read as follows:

454.530. FAMILY SUPPORT PAYMENT CENTER ESTABLISHED BY THE DIVISION FOR CHILD SUPPORT ORDERS — DISBURSEMENT OF CHILD SUPPORT — BUSINESS DAY, DEFINED — ELECTRONIC FUNDS TRANSFER SYSTEM. — 1. On or before October 1, 1999, the division of child support enforcement shall establish and operate a state disbursement unit to be known as the "Family Support Payment Center" for the receipt and disbursement of payments pursuant to support orders for:

- (1) All cases enforced by the division pursuant to section 454.400; and
- (2) Any case required by federal law to be collected or disbursed by the payment center including, but not limited to, cases in which a support order is initially issued on or after January 1, 1994, in which the income of the obligor is subject to withholding; and
- (3) Beginning July 1, 2001:
 - (a) Any other case with a support order in which payments are ordered or directed by a court or the division to be made to the payment center or in which the income of the obligor is subject to withholding; and
 - (b) Any case prior to July 1, 2001, in which support payments are ordered paid to the clerk of the court as trustee pursuant to section 452.345, RSMo.

2. The family support payment center shall be operated by the division, in conjunction with other state agencies pursuant to a cooperative agreement, or by a contractor responsible directly to the division. Notwithstanding any other provision of law to the contrary, after notice by the division or the court that issued the support order to the obligor that all future payments shall be made to the payment center, the payment center shall become trustee for payments made by parents, employers, states and other entities, and all future payments shall be made to the payment center. The payment center shall disburse payments to custodial parents and other obligees, the state or agencies of other states. If the payment center is operated by a contractor and the contractor receives and disburses the payments, the contractor shall have an annual audit conducted by an independent certified public accountant. The audit will determine whether funds received are disbursed or otherwise accounted for, and make recommendations as to the procedures and changes that the contractor should take to protect the funds received from misappropriation and theft. A copy of the audit shall be delivered to the division, the office of administration and the office of the state courts administrator.

3. Except as otherwise provided in sections 454.530 to 454.560, the payment center shall disburse support payments within two business days after receipt from the employer or other source of periodic income, if sufficient information identifying the payee is provided. As used in sections 454.530 to 454.560, "business day" means a day state government offices are open for regular business. Disbursement of payments made toward arrearages may be delayed until the resolution of any timely appeal with respect to such arrearage or upon order of a court.

4. The family support payment center shall establish an electronic funds transfer system for the transfer of child support payments. **Obligees who want electronic transfer of support payments to a designated account shall complete an application for direct deposit and submit it to the family support payment center. The family support payment center may**

issue an electronic access card for the purpose of disbursing support payments to any obligee not using automated deposit to a designated account. Any person or employer may, without penalty, choose to [receive payments from or] disburse payments to the payment center by check or draft instead of by electronic transfer.

Approved July 12, 2006
SB 630 [SCS SB 630]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies eligibility requirements for the Homestead Preservation Tax Credit

AN ACT to repeal section 137.106, RSMo, and to enact in lieu thereof one new section relating to the homestead preservation tax.

SECTION

A. Enacting clause.

137.106. Homestead preservation — definitions — homestead exemption credit received, when, application process — assessor's duties — department of revenue duties — exemption limit set, when, how applied — rulemaking authority — sunset provision.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 137.106, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 137.106, to read as follows:

137.106. HOMESTEAD PRESERVATION — DEFINITIONS — HOMESTEAD EXEMPTION CREDIT RECEIVED, WHEN, APPLICATION PROCESS — ASSESSOR'S DUTIES — DEPARTMENT OF REVENUE DUTIES — EXEMPTION LIMIT SET, WHEN, HOW APPLIED — RULEMAKING AUTHORITY — SUNSET PROVISION. — 1. This section may be known and may be cited as "The Missouri Homestead Preservation Act".

2. As used in this section, the following terms shall mean:

- (1) "Department", the department of revenue;
- (2) "Director", the director of revenue;
- (3) "Disabled", as such term is defined in section 135.010, RSMo;
- (4) "Eligible owner", any individual owner of property who is sixty-five years old or older

as of January first of the tax year in which the individual is claiming the credit or who is disabled, and who had an income of equal to or less than the maximum upper limit in the year prior to completing an application pursuant to [subsection 4 of] this section; **or**

(a) In the case of a married couple owning property either jointly or as tenants by the entirety, or where only one spouse owns the property, such couple shall be considered an eligible taxpayer if both spouses have reached the age of sixty-five or if one spouse is disabled, or if one spouse is at least sixty-five years old and the other spouse is at least sixty years old, and the combined income of the couple in the year prior to completing an application pursuant to [subsection 4 of] this section did not exceed the maximum upper limit; **or**

(b) **In the case of joint ownership by unmarried persons or ownership by tenancy in common by two or more unmarried persons, such owners shall be considered an eligible owner if each person with an ownership interest individually satisfies the eligibility requirements for an individual eligible owner under this section and the combined income of all individuals with an interest in the property is equal to or less than the maximum upper limit in the year prior to completing an application under this section. If any individual with an ownership interest in the property fails to satisfy the eligibility requirements of an individual eligible owner or if the combined income of all individuals**

with interest in the property exceeds the maximum upper limit, then all individuals with an ownership interest in such property shall be deemed ineligible owners regardless of such other individual's ability to individually meet the eligibility requirements; or

(c) In the case of property held in trust, the eligible owner and recipient of the tax credit shall be the trust itself provided the previous owner of the homestead or the previous owner's spouse: is the settlor of the trust with respect to the homestead; currently resides in such homestead; and but for the transfer of such property would have satisfied the age, ownership, and maximum upper limit requirements for income as defined in subdivisions (7) and (8) of this subsection;

no individual shall be an eligible owner if the individual has not paid their property tax liability, if any, in full by the payment due date in any of the three prior tax years, except that a late payment of a property tax liability in any prior year shall not disqualify a potential eligible owner if such owner paid in full the tax liability and any and all penalties, additions and interest that arose as a result of such late payment; no individual shall be an eligible owner if such person filed a valid claim for the senior citizens property tax relief credit pursuant to sections 135.010 to 135.035, RSMo;

(5) "Homestead", as such term is defined pursuant to section 135.010, RSMo, except as limited by provisions of this section to the contrary. No property shall be considered a homestead if such property was improved since the most recent annual assessment by more than five percent of the prior year appraised value, except where an eligible owner of the property has made such improvements to accommodate a disabled person;

(6) "Homestead exemption limit", a percentage increase, rounded to the nearest hundredth of a percent, which shall be equal to the percentage increase to tax liability, not including improvements, of a homestead from one tax year to the next that exceeds a certain percentage set pursuant to subsection 10 of this section. For applications filed in 2005 or 2006, the homestead exemption limit shall be based on the increase to tax liability from 2004 to 2005. For applications filed between April 1, 2005, and September 30, 2006, an eligible owner, who otherwise satisfied the requirements of this section, shall not apply for the homestead exemption credit more than once during such period. For applications filed after 2006, the homestead exemption limit shall be based on the increase to tax liability from two years prior to application to the year immediately prior to application;

(7) "Income", federal adjusted gross income, and in the case of ownership of the homestead by trust, the income of the settlor applicant shall be imputed to the income of the trust for purposes of determining eligibility with regards to the maximum upper limit;

(8) "Maximum upper limit", in the calendar year 2005, the income sum of seventy thousand dollars; in each successive calendar year this amount shall be raised by the incremental increase in the general price level, as defined pursuant to article X, section 17 of the Missouri Constitution.

3. Pursuant to article X, section 6(a) of the Constitution of Missouri, if in the prior tax year, the property tax liability on any parcel of subclass (1) real property increased by more than the homestead exemption limit, without regard for any prior credit received due to the provisions of this section, then any eligible owner of the property shall receive a homestead exemption credit to be applied in the current tax year property tax liability to offset the prior year increase to tax liability that exceeds the homestead exemption limit, except as eligibility for the credit is limited by the provisions of this section. The amount of the credit shall be listed separately on each taxpayer's tax bill for the current tax year, or on a document enclosed with the taxpayer's bill. The homestead exemption credit shall not affect the process of setting the tax rate as required pursuant to article X, section 22 of the Constitution of Missouri and section 137.073 in any prior, current, or subsequent tax year.

4. If application is made in 2005, any potential eligible owner may apply for the homestead exemption credit by completing an application through their local assessor's office. Applications may be completed between April first and September thirtieth of any tax year in

order for the taxpayer to be eligible for the homestead exemption credit in the tax year next following the calendar year in which the homestead exemption credit application was completed. The application shall be on forms provided to the assessor's office by the department. Forms also shall be made available on the department's Internet site and at all permanent branch offices and all full-time, temporary, or fee offices maintained by the department of revenue. The applicant shall attest under penalty of perjury:

- (1) To the applicant's age;
- (2) That the applicant's prior year income was less than the maximum upper limit;
- (3) To the address of the homestead property; and
- (4) That any improvements made to the homestead, not made to accommodate a disabled person, did not total more than five percent of the prior year appraised value.

The applicant shall also include with the application copies of receipts indicating payment of property tax by the applicant for the homestead property for the two prior tax years.

5. If application is made in 2005, the assessor, upon request for an application, shall:

(1) Certify the parcel number and owner of record as of January first of the homestead, including verification of the acreage classified as residential on the assessor's property record card;

(2) Obtain appropriate prior tax year levy codes for each homestead from the county clerks for inclusion on the form;

(3) Record on the application the assessed valuation of the homestead for the current tax year, and any new construction or improvements for the current tax year; and

(4) Sign the application, certifying the accuracy of the assessor's entries.

6. If application is made after 2005, any potential eligible owner may apply for the homestead exemption credit by completing an application. Applications may be completed between April first and [September thirtieth] **October fifteenth** of any tax year in order for the taxpayer to be eligible for the homestead exemption credit in the tax year next following the calendar year in which the homestead exemption credit application was completed. The application shall be on forms provided by the department. Forms also shall be made available on the department's Internet site and at all permanent branch offices and all full-time, temporary, or fee offices maintained by the department of revenue. The applicant shall attest under penalty of perjury:

- (1) To the applicant's age;
- (2) That the applicant's prior year income was less than the maximum upper limit;
- (3) To the address of the homestead property;
- (4) That any improvements made to the homestead, not made to accommodate a disabled person, did not total more than five percent of the prior year appraised value; and

(5) The applicant shall also include with the application copies of receipts indicating payment of property tax by the applicant for the homestead property for the three prior tax years.

7. Each applicant shall send the application to the department by September thirtieth of each year for the taxpayer to be eligible for the homestead exemption credit in the tax year next following the calendar year in which the application was completed.

8. If application is made in 2005, upon receipt of the applications, the department shall calculate the tax liability, adjusted to exclude new construction or improvements verify compliance with the maximum income limit, verify the age of the applicants, and make adjustments to these numbers as necessary on the applications. The department also shall disallow any application where the applicant has also filed a valid application for the senior citizens property tax credit, pursuant to sections 135.010 to 135.035, RSMo. Once adjusted tax liability, age, and income are verified, the director shall determine eligibility for the credit, and provide a list of all verified eligible owners to the county collectors or county clerks in counties with a township form of government by December fifteenth of each year. By January fifteenth, the county collectors or county clerks in counties with a township form of government shall provide a list to the department of any verified eligible owners who failed to pay the property tax

due for the tax year that ended immediately prior. Such eligible owners shall be disqualified from receiving the credit in the current tax year.

9. If application is made after 2005, upon receipt of the applications, the department shall calculate the tax liability, verify compliance with the maximum income limit, verify the age of the applicants, and make adjustments to these numbers as necessary on the applications. The department also shall disallow any application where the applicant also has filed a valid application for the senior citizens property tax credit under sections 135.010 to 135.035, RSMo. Once adjusted tax liability, age, and income are verified, the director shall determine eligibility for the credit and provide a list of all verified eligible owners to the county assessors or county clerks in counties with a township form of government by December fifteenth of each year. By January fifteenth, the county assessors shall provide a list to the department of any verified eligible owners who made improvements not for accommodation of a disability to the homestead and the dollar amount of the assessed value of such improvements. If the dollar amount of the assessed value of such improvements totaled more than five percent of the prior year appraised value, such eligible owners shall be disqualified from receiving the credit in the current tax year.

10. The director shall calculate the level of appropriation necessary to set the homestead exemption limit at five percent when based on a year of general reassessment or at two and one-half percent when based on a year without general reassessment for the homesteads of all verified eligible owners, and provide such calculation to the speaker of the house of representatives, the president pro tempore of the senate, and the director of the office of budget and planning in the office of administration by January thirty-first of each year.

11. For applications made in 2005, the general assembly shall make an appropriation for the funding of the homestead exemption credit that is signed by the governor, then the director shall, by July thirty-first of such year, set the homestead exemption limit. The limit shall be a single, statewide percentage increase to tax liability, rounded to the nearest hundredth of a percent, which, if applied to all homesteads of verified eligible owners who applied for the homestead exemption credit in the immediately prior tax year, would cause all but one-quarter of one percent of the amount of the appropriation, minus any withholding by the governor, to be distributed during that fiscal year. The remaining one-quarter of one percent shall be distributed to the county assessment funds of each county on a proportional basis, based on the number of eligible owners in each county; such one-quarter percent distribution shall be delineated in any such appropriation as a separate line item in the total appropriation. If no appropriation is made by the general assembly during any tax year or no funds are actually distributed pursuant to any appropriation therefor, then no homestead preservation credit shall apply in such year.

12. After setting the homestead exemption limit for applications made in 2005, the director shall apply the limit to the homestead of each verified eligible owner and calculate the credit to be associated with each verified eligible owner's homestead, if any. The director shall send a list of those eligible owners who are to receive the homestead exemption credit, including the amount of each credit, the certified parcel number of the homestead, and the address of the homestead property, to the county collectors or county clerks in counties with a township form of government by August thirty-first. Pursuant to such calculation, the director shall instruct the state treasurer as to how to distribute the appropriation and assessment fund allocation to the county collector's funds of each county or the treasurer ex officio collector's fund in counties with a township form of government where recipients of the homestead exemption credit are located, so as to exactly offset each homestead exemption credit being issued, plus the one-quarter of one percent distribution for the county assessment funds. As a result of the appropriation, in no case shall a political subdivision receive more money than it would have received absent the provisions of this section plus the one-quarter of one percent distribution for the county assessment funds. Funds, at the direction of the county collector or the treasurer ex officio collector in counties with a township form of government, shall be deposited in the county collector's fund of a county or the treasurer ex officio collector's fund or may be sent by mail to

the collector of a county, or the treasurer ex officio collector in counties with a township form of government, not later than October first in any year a homestead exemption credit is appropriated as a result of this section and shall be distributed as moneys in such funds are commonly distributed from other property tax revenues by the collector of the county or the treasurer ex officio collector of the county in counties with a township form of government, so as to exactly offset each homestead exemption credit being issued. In counties with a township form of government, the county clerk shall provide the treasurer ex officio collector a summary of the homestead exemption credit for each township for the purpose of distributing the total homestead exemption credit to each township collector in a particular county.

13. If, in any given year after 2005, the general assembly shall make an appropriation for the funding of the homestead exemption credit that is signed by the governor, then the director shall, by July thirty-first of such year, set the homestead exemption limit. The limit shall be a single, statewide percentage increase to tax liability, rounded to the nearest hundredth of a percent, which, if applied to all homesteads of verified eligible owners who applied for the homestead exemption credit in the immediately prior tax year, would cause all of the amount of the appropriation, minus any withholding by the governor, to be distributed during that fiscal year. If no appropriation is made by the general assembly during any tax year or no funds are actually distributed pursuant to any appropriation therefor, then no homestead preservation credit shall apply in such year.

14. After setting the homestead exemption limit for applications made after 2005, the director shall apply the limit to the homestead of each verified eligible owner and calculate the credit to be associated with each verified eligible owner's homestead, if any. The director shall send a list of those eligible owners who are to receive the homestead exemption credit, including the amount of each credit, the certified parcel number of the homestead, and the address of the homestead property, to the county collectors or county clerks in counties with a township form of government by August thirty-first. Pursuant to such calculation, the director shall instruct the state treasurer as to how to distribute the appropriation to the county collector's fund of each county where recipients of the homestead exemption credit are located, so as to exactly offset each homestead exemption credit being issued. As a result of the appropriation, in no case shall a political subdivision receive more money than it would have received absent the provisions of this section. Funds, at the direction of the collector of the county or treasurer ex officio collector in counties with a township form of government, shall be deposited in the county collector's fund of a county or may be sent by mail to the collector of a county, or treasurer ex officio collector in counties with a township form of government, not later than October first in any year a homestead exemption credit is appropriated as a result of this section and shall be distributed as moneys in such funds are commonly distributed from other property tax revenues by the collector of the county or the treasurer ex officio collector of the county in counties with a township form of government, so as to exactly offset each homestead exemption credit being issued.

15. The department shall promulgate rules for implementation of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void. Any rule promulgated by the department shall in no way impact, affect, interrupt, or interfere with the performance of the required statutory duties of any county elected official, more particularly including the county collector when performing such duties as deemed necessary for the distribution of any homestead appropriation and the distribution of all other real and personal property taxes.

16. In the event that an eligible owner dies or transfers ownership of the property after the homestead exemption limit has been set in any given year, but prior to January first of the year in which the credit would otherwise be applied, the credit shall be void and any corresponding moneys, pursuant to subsection 12 of this section, shall lapse to the state to be credited to the general revenue fund. In the event the collector of the county or the treasurer ex officio collector of the county in counties with a township form of government determines prior to issuing the credit that the individual is not an eligible owner because the individual did not pay the prior three years' property tax liability in full, the credit shall be void and any corresponding moneys, under subsection 11 of this section, shall lapse to the state to be credited to the general revenue fund.

17. This section shall apply to all tax years beginning on or after January 1, 2005. This subsection shall become effective June 28, 2004.

18. In accordance with the provisions of sections 23.250 to 23.298, RSMo, and unless otherwise authorized pursuant to section 23.253, RSMo:

(1) Any new program authorized under the provisions of this section shall automatically sunset six years after the effective date of this section; and

(2) This section shall terminate on September first of the year following the year in which any new program authorized under this section is sunset, and the revisor of statutes shall designate such sections and this section in a revision bill for repeal.

Approved June 9, 2006

SB 641 [SB 641]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires all contributions to the Missouri Higher Education Savings Program be held for twelve months

AN ACT to repeal section 166.420, RSMo, and to enact in lieu thereof one new section relating to the minimum time for holding investments in the Missouri higher education savings program.

SECTION

A. Enacting clause.

166.420. Participation agreements, terms and conditions — contribution limitation — penalty.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 166.420, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 166.420, to read as follows:

166.420. PARTICIPATION AGREEMENTS, TERMS AND CONDITIONS — CONTRIBUTION LIMITATION — PENALTY. — 1. The board may enter into savings program participation agreements with participants on behalf of beneficiaries pursuant to the provisions of sections 166.400 to 166.455, including the following terms and conditions:

(1) A participation agreement shall stipulate the terms and conditions of the savings program in which the participant makes contributions;

(2) A participation agreement shall specify the method for calculating the return on the contribution made by the participant;

(3) The execution of a participation agreement by the board shall not guarantee that the beneficiary named in any participation agreement will be admitted to an eligible educational institution, be allowed to continue to attend an eligible educational institution after having been admitted or will graduate from an eligible educational institution;

(4) A participation agreement shall clearly and prominently disclose to participants the risk associated with depositing moneys with the board;

(5) Participation agreements shall be organized and presented in a way and with language that is easily understandable by the general public; and

(6) A participation agreement shall clearly and prominently disclose to participants the existence of any load charge or similar charge assessed against the accounts of the participants for administration or services.

2. The board shall establish the maximum amount which may be contributed annually by a participant with respect to a beneficiary.

3. The board shall establish a total contribution limit for savings accounts established under the savings program with respect to a beneficiary to permit the savings program to qualify as a "qualified state tuition program" pursuant to Section 529 of the Internal Revenue Code. No contribution may be made to a savings account for a beneficiary if it would cause the balance of all savings accounts of the beneficiary to exceed the total contribution limit established by the board. The board may establish other requirements that it deems appropriate to provide adequate safeguards to prevent contributions on behalf of a beneficiary from exceeding what is necessary to provide for the qualified higher education expenses of the beneficiary.

4. The board shall establish the minimum length of time that contributions and earnings must be held by the savings program to qualify pursuant to section 166.435, **provided that the minimum length of time shall be at least twelve months for the amount of any single contribution.** Any contributions or earnings that are withdrawn or distributed from a savings account prior to the expiration of the minimum length of time, as established by the board, shall be subject to a penalty pursuant to section 166.430.

Approved July 12, 2006

SB 645 [SB 645]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the Missouri Business Use Incentive for Large-Scale Development Act

AN ACT to repeal section 100.710, RSMo, and to enact in lieu thereof one new section relating to the Missouri business use incentive for large-scale development act.

SECTION

A. Enacting clause.

100.710. Definitions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 100.710, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 100.710, to read as follows:

100.710. DEFINITIONS. — As used in sections 100.700 to 100.850, the following terms mean:

(1) "Assessment", an amount of up to five percent of the gross wages paid in one year by an eligible industry to all eligible employees in new jobs, or up to ten percent if the economic development project is located within a distressed community as defined in section 135.530, RSMo;

(2) "Board", the Missouri development finance board as created by section 100.265;

(3) "Certificates", the revenue bonds or notes authorized to be issued by the board pursuant to section 100.840;

(4) "Credit", the amount agreed to between the board and an eligible industry, but not to exceed the assessment attributable to the eligible industry's project;

(5) "Department", the Missouri department of economic development;

(6) "Director", the director of the department of economic development;

(7) "Economic development project":

(a) The acquisition of any real property by the board, the eligible industry, or its affiliate;

or

(b) The fee ownership of real property by the eligible industry or its affiliate; and

(c) For both paragraphs (a) and (b) of this subdivision, "economic development project" shall also include the development of the real property including construction, installation, or equipping of a project, including fixtures and equipment, and facilities necessary or desirable for improvement of the real property, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries and other surface obstructions; filling, grading and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications and similar facilities; off-site construction of utility extensions to the boundaries of the real property; and the acquisition, installation, or equipping of facilities on the real property, for use and occupancy by the eligible industry or its affiliates;

(8) "Eligible employee", a person employed on a full-time basis in a new job at the economic development project averaging at least thirty-five hours per week who was not employed by the eligible industry or a related taxpayer in this state at any time during the twelve-month period immediately prior to being employed at the economic development project. For an essential industry, a person employed on a full-time basis in an existing job at the economic development project averaging at least thirty-five hours per week may be considered an eligible employee for the purposes of the program authorized by sections 100.700 to 100.850;

(9) "Eligible industry", a business located within the state of Missouri which is engaged in interstate or intrastate commerce for the purpose of manufacturing, processing or assembling products, conducting research and development, or providing services in interstate commerce, office industries, or agricultural processing, but excluding retail, health or professional services. "Eligible industry" does not include a business which closes or substantially reduces its operation at one location in the state and relocates substantially the same operation to another location in the state. This does not prohibit a business from expanding its operations at another location in the state provided that existing operations of a similar nature located within the state are not closed or substantially reduced. This also does not prohibit a business from moving its operations from one location in the state to another location in the state for the purpose of expanding such operation provided that the board determines that such expansion cannot reasonably be accommodated within the municipality in which such business is located, or in the case of a business located in an incorporated area of the county, within the county in which such business is located, after conferring with the chief elected official of such municipality or county and taking into consideration any evidence offered by such municipality or county regarding the ability to accommodate such expansion within such municipality or county. An eligible industry must:

(a) Invest a minimum of fifteen million dollars, or ten million dollars for an office industry, in an economic development project; and

(b) Create a minimum of one hundred new jobs for eligible employees at the economic development project or a minimum of five hundred jobs if the economic development project is an office industry or a minimum of two hundred new jobs if the economic development project is an office industry located within a distressed community as defined in section 135.530, RSMo, or in the case of an approved company for a project for a world headquarters of a business whose primary function is tax return preparation in any home rule city with more than four hundred thousand inhabitants and located in more than one county, create a minimum of one hundred new jobs for eligible employees at the economic development project. An industry that meets the definition of "essential industry" may be considered an eligible industry for the purposes of the program authorized by sections 100.700 to 100.850.

Notwithstanding the preceding provisions of this subdivision, a development agency, as such term is defined in subdivision (3) of section 100.255, or a corporation, limited liability company, or partnership formed on behalf of a development agency, at the option of the board, may be authorized to act as an eligible industry with such obligations and rights otherwise applicable to an eligible industry, including the rights of an approved company under section 100.850, so long as the eligible industry otherwise meets the requirements imposed by this subsection;

(10) "Essential industry", a business that otherwise meets the definition of eligible industry except an essential industry shall:

(a) Be a targeted industry;

(b) Be located in a home rule city with more than twenty-six thousand but less than twenty-seven thousand inhabitants located in any county with a charter form of government and with more than one million inhabitants **or in a city of the fourth classification with more than four thousand three hundred but fewer than four thousand four hundred inhabitants and located in any county with a charter form of government and with more than one million inhabitants;**

(c) Have maintained at least two thousand jobs at the proposed economic development project site each year for a period of four years preceding the year in which application for the program authorized by sections 100.700 to 100.850 is made and during the year in which said application is made;

(d) [For the duration of the certificates,] Retain, at the proposed economic development project site, the level of employment that existed at the site in the taxable year immediately preceding the year in which application for the program, authorized by sections 100.700 to 100.850, is made. **Retention of such level of employment shall commence three years from the date of issuance of the certificates and continue for the duration of the certificates;** and

(e) Invest a minimum of five hundred million dollars in the economic development project by the end of the third year after the issuance of the certificates under this program;

(11) "New job", a job in a new or expanding eligible industry not including jobs of recalled workers, replacement jobs or jobs that formerly existed in the eligible industry in the state. For an essential industry, an existing job may be considered a new job for the purposes of the program authorized by sections 100.700 to 100.850;

(12) "Office industry", a regional, national or international headquarters, a telecommunications operation, a computer operation, an insurance company, or a credit card billing and processing center;

(13) "Program costs", all necessary and incidental costs of providing program services including payment of the principal of premium, if any, and interest on certificates, including capitalized interest, issued to finance a project, and funding and maintenance of a debt service reserve fund to secure such certificates. Program costs shall include:

(a) Obligations incurred for labor and obligations incurred to contractors, subcontractors, builders and materialmen in connection with the acquisition, construction, installation or equipping of an economic development project;

(b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation or equipping of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations and supervision of construction, as well as the costs for the performance of all the duties required by or consequent upon the acquisition, construction, installation or equipping of an economic development project;

(e) All costs which are required to be paid under the terms of any contract or contracts for the acquisition, construction, installation or equipping of an economic development project; and

(f) All other costs of a nature comparable to those described in this subdivision;

(14) "Program services", administrative expenses of the board, including contracted professional services, and the cost of issuance of certificates;

(15) "Targeted industry", an industry or one of a cluster of industries that is identified by the department as critical to the state's economic security and growth and affirmed as such by the joint committee on economic development policy and planning established in section 620.602, RSMo.

Approved June 12, 2006

SB 648 [SB 648]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Replaces the term "lunatic asylum" with "mental health facility" in statute about fire escapes and stairs

AN ACT to repeal section 320.010, RSMo, and to enact in lieu thereof one new section relating to entities subject to fire protection regulation.

SECTION

A. Enacting clause.

320.010. Proprietors of public buildings required to erect fire escapes — how constructed.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 320.010, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 320.010, to read as follows:

320.010. PROPRIETORS OF PUBLIC BUILDINGS REQUIRED TO ERECT FIRE ESCAPES — HOW CONSTRUCTED. — It shall be the duty of the owner, proprietor, lessee, trustee, or keeper of every hotel, boarding and lodging house, tenement house, schoolhouse, opera house, theater, music hall, factory, office building, except fireproof office buildings in which all structural parts are wholly of brick, stone, tile, concrete, reinforced concrete, iron, steel, or incombustible material, and which are not used for lodging purposes in the state of Missouri, and every building therein where people congregate or which is used for a business place or for public or private

assemblages, which has a height of three or more stories, to provide said structure with iron or steel stair or tubular fire escapes attached to the exterior of said building and by staircases located in the interior of said building. The fire escapes shall extend from the upper story to the ground, pavement or sidewalk with iron or steel ladder from the upper story to the roof; provided, however, that such fire escapes, if not continued to the ground, pavement or sidewalk, shall be equipped with a counter-balance device attachment, appliance or apparatus which shall extend from the floor level of the second story to the ground, pavement or sidewalk. School buildings, opera houses, theaters and church buildings, also hospitals, blind and [lunatic asylums] **mental health facilities** and seminaries, shall each have a stair or tubular fire escape built solid to the ground. In no case shall a fire escape run past a window where it is practicable to avoid it. All fire escapes required by this chapter, except as herein provided, must be of the kind known as stationary fire escapes. All buildings heretofore erected shall be made to conform to the provisions of this chapter.

Approved June 9, 2006

SB 650 [SCS SB 650]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Specifies terms of office and eligibility criteria for the governing board of Missouri State University

AN ACT to repeal sections 174.450, 174.453, and 174.500, RSMo, and to enact in lieu thereof three new sections relating to the board of governors of Missouri State University, with an emergency clause.

SECTION

- A. Enacting clause.
- 174.450. Board of governors to be appointed for certain public institutions of higher education, qualifications, terms.
- 174.453. Board, appointment — certain residency requirements — terms, voting members — term, nonvoting student member — board appointments, Missouri Southern State University.
- 174.500. West Plains campus of Southwest Missouri State University established — mission implementation plan.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 174.450, 174.453, and 174.500, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 174.450, 174.453, and 174.500, to read as follows:

174.450. BOARD OF GOVERNORS TO BE APPOINTED FOR CERTAIN PUBLIC INSTITUTIONS OF HIGHER EDUCATION, QUALIFICATIONS, TERMS. — 1. Except as provided in subsection 2 and subsection 6 of this section, the governing board of Central Missouri State University, Missouri State University, Missouri Southern State University, Missouri Western State University, and of each other public institution of higher education which, through the procedures established in subdivision (7) or (8) of section 173.030, RSMo, is charged with a statewide mission shall be a board of governors consisting of eight members, composed of seven voting members and one nonvoting member as provided in sections 174.453 and 174.455, who shall be appointed by the governor of Missouri, by and with the advice and consent of the senate.

No person shall be appointed a voting member who is not a citizen of the United States and who has not been a resident of the state of Missouri for at least two years immediately prior to such appointment. Not more than four voting members shall belong to any one political party. The appointed members of the board of regents serving on the date of the statutory mission change shall become members of the board of governors on the effective date of the statutory mission change and serve until the expiration of the terms for which they were appointed. The board of regents of any such institution shall be abolished on the effective date of the statutory mission change, as prescribed in subdivision (7) or (8) of section 173.030, RSMo.

2. The governing board of Missouri State University, a public institution of higher education charged with a statewide mission in public affairs, shall be a board of governors of ten members, composed of nine voting members and one nonvoting member, who shall be appointed by the governor, by and with the advice and consent of the senate. The nonvoting member shall be a student selected in the same manner as prescribed in section 174.055. No more than one voting member shall be appointed to the board from the same congressional district, and every member of the board shall be a citizen of the United States, and a resident of this state for at least two years prior to his or her appointment. No more than five voting members shall belong to any one political party. **The term of office of the governors shall be six years. The voting members of the board of governors serving on August 28, 2005, shall serve until the expiration of the terms for which they were appointed. For those voting members appointed after August 28, 2005, the term of office will be established in a manner where no more than three terms shall expire in a given year. The term of office for those appointed hereafter shall end January first in years ending in an odd number.**

3. If a voting member of the board of governors of Missouri State University is found by unanimous vote of the other governors to have moved such governor's residence from the district from which such governor was appointed, then the office of such governor shall be forfeited and considered vacant.

4. Should the total number of Missouri congressional districts be altered, all members of the board of governors of Missouri State University shall be allowed to serve the remainder of the term for which they were appointed.

5. Should the boundaries of any congressional districts be altered in a manner that displaces a member of the board of governors of Missouri State University from the congressional district from which the member was appointed, the member shall be allowed to serve the remainder of the term for which the member was appointed.

[3.] 6. The governing board of Missouri Southern State University shall be a board of governors consisting of nine members, composed of eight voting members and one nonvoting member as provided in sections 174.453 and 174.455, who shall be appointed by the governor of Missouri, by and with the advice and consent of the senate. No person shall be appointed a voting member who is not a citizen of the United States and who has not been a resident of the state of Missouri for at least two years immediately prior to such appointment. Not more than four voting members shall belong to any one political party.

174.453. BOARD, APPOINTMENT — CERTAIN RESIDENCY REQUIREMENTS — TERMS, VOTING MEMBERS — TERM, NONVOTING STUDENT MEMBER — BOARD APPOINTMENTS, MISSOURI SOUTHERN STATE UNIVERSITY. — 1. Except as provided in section 174.450, the board of governors shall be appointed as follows:

(1) Five voting members shall be selected from the counties comprising the institution's historic statutory service region as described in section 174.010, except that no more than two members shall be appointed from any one county with a population of less than two hundred thousand inhabitants;

(2) Two voting members shall be selected from any of the counties in the state which are outside of the institution's historic service region; and

(3) One nonvoting member who is a student shall be selected in the same manner as prescribed in section 174.055.

2. The term of service of the governors shall be as follows:

(1) The voting members shall be appointed for terms of six years; and

(2) The nonvoting student member shall serve a two-year term.

3. Members of any board of governors selected pursuant to this section and in office on May 13, 1999, shall serve the remainder of their unexpired terms.

4. Notwithstanding the provisions of subsection 1 of this section, the board of governors of Missouri Southern State University shall be appointed as follows:

(1) Six voting members shall be selected from any of the following counties: Barton, Jasper, Newton, McDonald, Dade, Lawrence, and Barry provided that no more than three of these six members shall be appointed from any one county;

(2) Two voting members shall be selected from any of the counties in the state which are outside of the counties articulated in subdivision (1) of this subsection;

(3) One nonvoting member who is a student shall be selected in the same manner as prescribed in section 174.055; and

(4) The provisions of subdivisions (1) and (2) of this subsection shall only apply to board members first appointed after August 28, 2004.

5. Notwithstanding the provisions of subsection 1 of this section, the board of governors of Missouri Western State University shall be appointed as follows:

(1) Five voting members shall be selected from any of the following counties: Buchanan, Platte, Clinton, Andrew, and DeKalb provided that no more than three of these five members shall be appointed from any one county;

(2) Two voting members shall be selected from any of the counties in the state which are outside of the counties articulated in subdivision (1) of this subsection;

(3) One nonvoting member who is a student shall be selected in the same manner as prescribed in section 174.055; and

(4) The provisions of subdivisions (1) and (2) of this subsection shall only apply to board members first appointed after August 28, 2005.

174.500. WEST PLAINS CAMPUS OF SOUTHWEST MISSOURI STATE UNIVERSITY ESTABLISHED — MISSION IMPLEMENTATION PLAN. — 1. The board of [regents of Southwest] **governors of** Missouri State University is authorized to continue the program of higher education at West Plains, Missouri, which was begun in 1963 and which shall be known as the "West Plains Campus of [Southwest] Missouri State University". [Southwest] Missouri State University may include an appropriation request for the branch facility at West Plains in its operating budget.

2. The coordinating board for higher education in cooperation with the board of [regents] **governors** shall develop a mission implementation plan for the campus at West Plains, Howell County, which is known as the "West Plains Campus of [Southwest] Missouri State University", and which shall be a teaching institution, offering one-year certificates, two-year associate degrees and credit and noncredit courses to both traditional and nontraditional students to meet the ongoing and emerging employer and educational needs of the citizens of the area served.

SECTION B. EMERGENCY CLAUSE. — Because it is necessary for the state to provide effective leadership for institutions of higher education in this state, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety,

and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved June 12, 2006

SB 667 [SCS SBs 667, 704, 941, 956 & 987]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates several portions of highways within Missouri after Missouri highway patrolmen

AN ACT to repeal section 227.345, RSMo, and to enact in lieu thereof seven new sections relating to highway patrol member highway designations.

SECTION

A. Enacting clause.

- 227.305. Trooper Robert Kolilis Memorial Highway designated for a portion of State Highway M in Washington County.
- 227.345. Edwin P. Hubble Memorial Highway designated for portion of Interstate 44 in Webster County.
- 227.359. Sgt. Dewayne Graham Jr. Memorial Bridges MO State Highway Patrol designated on State Highway 60 in the City of Van Buren.
- 227.375. Trooper Ross S. Creach Memorial Highway designated for a portion of U.S. Highway 54 in Camden County.
- 227.377. Trooper D. Kevin Floyd Memorial Highway designated for a portion of U.S. Highway 60 in Texas County.
- 227.379. Cpl. Jay Sampietro MO State Hwy. Patrol Memorial Highway designated for a portion of I-44 in Webster County.
- 227.384. Trooper Ralph Tatoian Memorial Highway designated for a portion of I-44 in Franklin County.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 227.345, RSMo, is repealed and seven new sections enacted in lieu thereof, to be known as sections 227.305, 227.345, 227.359, 227.375, 227.377, 227.379, and 227.384, to read as follows:

227.305. TROOPER ROBERT KOLILIS MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF STATE HIGHWAY M IN WASHINGTON COUNTY. — The portion of state highway M within Washington County which is located within the city limits of Irondale shall be designated the "Trooper Robert Kolilis Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by the Missouri State Troopers' Association.

227.345. EDWIN P. HUBBLE MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF INTERSTATE 44 IN WEBSTER COUNTY. — The portion of interstate 44, except for the portion of such interstate designated under section 227.379, located in a county of the third classification without a township form of government and with more than thirty-one thousand but less than thirty-one thousand one hundred inhabitants shall be designated the "Edwin P. Hubble Memorial Highway".

227.359. SGT. DEWAYNE GRAHAM JR. MEMORIAL BRIDGES MO STATE HIGHWAY PATROL DESIGNATED ON STATE HIGHWAY 60 IN THE CITY OF VAN BUREN. — The bridges on state highway 60 crossing the Current River that are located within the city limits of Van Buren shall be designated individually as the "Sgt. Dewayne Graham Jr. Memorial Bridge MO State Highway Patrol". The bridges shall be collectively designated as the "Sgt. Dewayne Graham Jr. Memorial Bridges MO State Highway Patrol". The department of transportation shall erect and maintain appropriate signs designating such bridges, with the costs to be paid for by the Missouri State Troopers Association.

227.375. TROOPER ROSS S. CREACH MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF U.S. HIGHWAY 54 IN CAMDEN COUNTY. — The portion of U.S. highway 54 located within Camden County from the eastern city limits of Macks Creek to the western city limits of Camdenton shall be designated the "Trooper Ross S. Creach Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by the Missouri State Troopers' Association.

227.377. TROOPER D.KEVIN FLOYD MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF U.S. HIGHWAY 60 IN TEXAS COUNTY. — The portion of U.S. Highway 60 from the intersection of state route MM to the intersection of state highway 181 in Texas County shall be designated the "Trooper D. Kevin Floyd Memorial Highway". The costs for such designation shall be paid by the Missouri Troopers' Association.

227.379. CPL. JAY SAMPIETRO MO STATE HWY. PATROL MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF I-44 IN WEBSTER COUNTY. — The portion of interstate highway 44 from mile marker 91 to mile marker 94, contained in Webster County, shall be designated the "Cpl. Jay Sampietro MO State Hwy. Patrol Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by the Missouri state troopers' association.

227.384. TROOPER RALPH TATOIAN MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF I-44 IN FRANKLIN COUNTY. — The two-mile portion of interstate highway 44 heading east from the U.S. Highway 50 intersection, contained in Franklin County, shall be designated as the "Trooper Ralph Tatoian Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by the Missouri State Troopers Association.

Approved June 29, 2006

SB 677 [SB 677]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Removes references to the Committee on Radiation Control from Chapter 192, RSMo

AN ACT to repeal sections 192.400, 192.410, and 192.420, RSMo, and to enact in lieu thereof three new sections relating to radiation control.

SECTION

- A. Enacting clause.
- 192.400. Definitions.
- 192.410. Powers and duties of department.
- 192.420. Department to make rules — procedure.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 192.400, 192.410, and 192.420, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 192.400, 192.410, and 192.420, to read as follows:

192.400. DEFINITIONS. — The following words and terms as used in sections 192.400 to 192.490 mean:

(1) ["Committee on radiation control", a subcommittee of the Missouri atomic energy commission;

(2)] "Radiation", any or all of the following forms of ionizing radiation: gamma and X rays, alpha and beta particles, high speed electrons, neutrons, protons and other nuclear or atomic particles or rays, and other radiant energies including, by way of extension but not of limitation, radium, strontium 90, cesium 137 and cobalt 60, but radiation as herein defined does not include sound or radio waves or visible, infrared or ultraviolet light;

[(3)] (2) "Radiation machine", any device that produces radiation;

[(4)] (3) "Unnecessary radiation", the use of radiation as herein defined in such a manner as to be hazardous to the health of the people or the industrial or agricultural potentials of the state.

192.410. POWERS AND DUTIES OF DEPARTMENT. — The department of health and senior services[, with the guidance and advice of the committee on radiation,] shall:

(1) Develop comprehensive policies and programs for the evaluation and determination of hazards associated with the use of radiation and for their abatement or elimination;

(2) Employ, and, if necessary, train the personnel needed to carry out the provisions of sections 192.400 to 192.490;

(3) Advise, consult and cooperate with other agencies of this state, the federal government, other states, and interstate agencies, and with affected groups, political subdivisions and industries in furtherance of the purposes of sections 192.400 to 192.490;

(4) Accept and administer loans, grants or other funds or gifts from the federal government and from other sources, public or private, for carrying out any of its functions;

(5) Encourage, participate in or conduct studies, investigations, training, research and demonstrations relating to the control of radiation hazards, the measurement of radiation, the effects on health of exposure to radiation and related problems as it may deem necessary or advisable for the discharge of its duties under sections 192.400 to 192.490 or for the protection of public health;

(6) Collect and disseminate information relating to the determination and control of radiation exposure and hazards;

(7) Review and approve plans and specifications for radiation sources submitted pursuant to rules and regulations promulgated under sections 192.400 to 192.490;

(8) Inspect radiation sources, their shielding and immediate surroundings and records for the determination of any possible radiation hazard and may examine any records or memoranda pertaining to the question of radiation machines and the use of radioactive materials.

192.420. DEPARTMENT TO MAKE RULES — PROCEDURE. — The department of health and senior services shall administer sections 192.400 to 192.490 and may[, with the approval of the committee on radiation control,] formulate and promulgate rules on radiation, including registration of radiation sources and machines, as may be necessary to prohibit and prevent unnecessary radiation. Rules shall be promulgated pursuant to the provisions of this section and chapter 536, RSMo. No rule or portion of a rule promulgated under the authority of sections 192.400 to 192.490 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

Approved June 9, 2006

SB 678 [SB 678]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Repeals the quarterly tax collections report requirement for temporary tax collection

AN ACT to repeal sections 32.051 and 143.072, RSMo, relating to certain quarterly tax collection reports.

SECTION

- A. Enacting clause.
- 32.051. Director, additional powers and duties — taxation of pension benefits, effect — report, content, when, to whom — revenue in excess of required refund, deposit.
- 143.072. Temporary tax rate on taxable corporation income, effective when — expires when — not allowable credit for banking institutions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 32.051 and 143.072, RSMo, are repealed, to read as follows:

[32.051. DIRECTOR, ADDITIONAL POWERS AND DUTIES — TAXATION OF PENSION BENEFITS, EFFECT — REPORT, CONTENT, WHEN, TO WHOM — REVENUE IN EXCESS OF REQUIRED REFUND, DEPOSIT. — The director of the department of revenue shall make an estimate of the amount of tax revenues generated under the provisions of this section and section 143.072, RSMo, and section 144.800, RSMo. The director of the department of revenue shall also make a separate accounting of the amount of income tax refunds and reduced individual income tax revenues necessitated by decisions of the Supreme Courts of the United States and the state of Missouri, relating to taxation of pension benefits. If the director of the department of revenue determines the amount of revenues finally generated under the provisions of this section and section 143.072, RSMo, and section 144.800, RSMo, exceeds the amount of individual income taxes collected on United States government retirement benefits and any interest accruing thereon, which the state is obligated to refund and the amount of reduced individual income tax revenues pursuant to the decisions of the Supreme Courts of the United States and the state of Missouri, he shall deposit the excess amount into the budget stabilization fund created pursuant to section 33.285, RSMo. The director of the department of revenue shall quarterly submit in writing a report to the senate and the house of representatives, and the commissioner of administration, describing the methodology used in arriving at the estimate of the amount of tax revenues generated under the provisions of this section and section 143.072, RSMo, and section 144.800, RSMo, and the amount of income tax refunds and reduced individual income tax revenues issued to taxpayers pursuant to the Supreme Courts' decisions.]

[143.072. TEMPORARY TAX RATE ON TAXABLE CORPORATION INCOME, EFFECTIVE WHEN — EXPIRES WHEN — NOT ALLOWABLE CREDIT FOR BANKING INSTITUTIONS. — 1. For all tax years beginning on or after January 1, 1990, but none after December 31, 1991, the income tax rate for corporations provided in section 143.071 shall not apply to the Missouri taxable income of corporations. For all tax years beginning on or after January 1, 1990, but none after December 31, 1991, a tax is imposed upon the Missouri taxable income of corporations in an amount equal to the following percentages of Missouri taxable income.

Taxable income:	Tax
Not over \$100,000	5%
Over \$100,000 but not over \$335,000	6%
Over \$335,000	6 1/2%

2. All provisions of this chapter relative to the levy, collection and administration of corporation income taxes shall apply to the tax imposed by this section, however, the amount of any tax imposed by this section above the amount prescribed by section 143.071 shall not be an allowable credit pursuant to section 148.030, RSMo.]

Approved June 12, 2006

SB 701 [SCS SBs 701 & 948]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies educational assistance benefits for Missouri national guard members.

AN ACT to repeal section 173.239, RSMo, and to enact in lieu thereof one new section relating to national guard member educational assistance grants.

SECTION

A. Enacting clause.

173.239. National guard member educational assistance grant, qualifications — limits — administration.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 173.239, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 173.239, to read as follows:

173.239. NATIONAL GUARD MEMBER EDUCATIONAL ASSISTANCE GRANT, QUALIFICATIONS—LIMITS—ADMINISTRATION. — 1. Any member of the Missouri national guard who possesses the qualifications set forth in this section may be awarded an educational assistance grant to an approved public institution or an approved private institution, as those terms are defined in either section 173.205 or section 173.778, of his or her choice while he or she is a member of the Missouri national guard. Funding for educational assistance pursuant to this section may be requested annually in the budget of the Missouri national guard. Educational assistance provided pursuant to this section shall not exceed funds appropriated for that purpose.

2. Educational assistance provided under this section shall not exceed the least of the following:

(1) The actual tuition, as defined in section 173.260, charged at an approved institution where the individual is enrolled or accepted for enrollment; or

(2) The amount of tuition charged a Missouri resident at the University of Missouri for attendance;

(3) The grants provided under this section may be prorated subject to appropriations in an amount no less than fifty percent of the limits set forth in this section.

3. A member of the Missouri national guard seeking educational assistance pursuant to this section shall provide a certificate of satisfactory service of his or her Missouri national guard duties from his or her commanding officer and shall possess all other necessary entrance requirements of the school of his or her choice and shall maintain a cumulative grade point

average (GPA) of at least two point five on a four point scale, or the equivalent on another scale approved by the program administrator, while attending the approved public or private institution.

4. If the grade point average of a member who is receiving educational assistance pursuant to this section falls below two point five on a four point scale, or the equivalent on another scale, such member shall retain the educational assistance and shall be placed on probation under the educational assistance program. Failure to achieve a current grade point average of at least two point five on a four point scale, or the equivalent on another scale for future semesters or equivalent academic terms shall result in termination of the scholarship effective as of the next academic term. The member shall be removed from probation status upon achieving a cumulative grade point average of two point five on a four point scale or the equivalent on another scale.

5. If a recipient of educational assistance pursuant to this section ceases to maintain their **active** military affiliation while enrolled in [a course of study or within three years after the completion of a course of study] **an academic semester or term** for any reason except death, disability, or medical disqualification the educational assistance shall be terminated and the recipient shall repay any amounts awarded [pursuant to this section. For the purposes of this section, individuals who are called to active duty will be credited for time served in fulfillment of their three-year obligation] **for the academic semester or term.**

6. Applicants for educational assistance pursuant to this section shall meet the qualifications established by section 173.215, except the provisions of subdivisions (2) and (4) of subsection 1 of section 173.215, and shall be qualified, full-time or part-time students.

7. The educational assistance program established pursuant to this section shall be administered by the office of the adjutant general of the Missouri national guard. The Missouri national guard shall establish guidelines for equitable **administrative** distribution of educational assistance.

Approved June 29, 2006

SB 718 [SS SCS SB 718]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the authority of the Development Finance Board to grant loans

AN ACT to repeal sections 8.420, 100.265, and 100.281, RSMo, and to enact in lieu thereof four new sections relating to the issuance of state loans.

SECTION

- A. Enacting clause.
- 8.420. Revenue bonds, form, effect, interest rates — approval by committee on legislative research.
- 100.265. Missouri development finance board created — members, qualifications, appointment, terms — meetings — quorum — expenses.
- 100.281. Project plan, approval procedure — board to review and grant loan, when — borrowing power — sale of bonds.
- 100.282. Limitations on approval of loans.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 8.420, 100.265, and 100.281, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 8.420, 100.265, 100.281 and 100.282, to read as follows:

8.420. REVENUE BONDS, FORM, EFFECT, INTEREST RATES — APPROVAL BY COMMITTEE ON LEGISLATIVE RESEARCH. — 1. Bonds issued under and pursuant to the provisions of sections 8.370 to 8.450 shall be of such denomination or denominations, shall bear such rate or rates of interest not to exceed fifteen percent per annum, and shall mature at such time or times within forty years from the date thereof, as the board determines. The bonds may be either serial bonds or term bonds.

2. Serial bonds may be issued with or without the reservation of the right to call them for payment and redemption in advance of their maturity, upon the giving of such notice, and with or without a covenant requiring the payment of a premium in the event of such payment and redemption prior to maturity, as the board determines.

3. Term bonds shall contain a reservation of the right to call them for payment and redemption prior to maturity at such time or times and upon the giving of such notice, and upon the payment of such premium, if any, as the board determines.

4. The bonds, when issued, shall be sold at public sale for the best price obtainable after giving such reasonable notice of such sale as may be determined by the board, but in no event shall such bonds be sold for less than ninety-eight percent of the par value thereof, and accrued interest. Any such bonds may be sold to the United States of America or to any agency or instrumentality thereof, at a price not less than par and accrued interest, without public sale and without the giving of notice as herein provided.

5. The bonds, when issued and sold, shall be negotiable instruments within the meaning of the law merchant and the negotiable instruments law, and the interest thereon shall be exempt from income taxes under the laws of the state of Missouri.

6. [After August 13, 1976,] The board shall not issue revenue bonds pursuant to the provisions of sections 8.370 to 8.450 for one or more projects, as defined in section 8.370, in excess of a total par value of [six hundred fifty-five] **seven hundred seventy-five** million dollars.

7. [After August 13, 1976,] Any bonds which may be issued pursuant to the provisions of sections 8.370 to 8.450 shall be issued only for projects which have been approved by a majority of the house members and a majority of the senate members of the committee on legislative research of the general assembly, and the approval by the committee on legislative research required by the provisions of section 8.380 shall be given only in accordance with this provision. For the purposes of approval of a project, the total amount of bonds issued for purposes of energy retrofitting in state-owned facilities shall be treated as a single project.

[8. No more than one hundred fifty million dollars of the net proceeds of the bonds authorized pursuant to sections 8.370 to 8.450 or sections 8.660 to 8.670 may be applied to general revenue in fiscal year 2003.]

100.265. MISSOURI DEVELOPMENT FINANCE BOARD CREATED — MEMBERS, QUALIFICATIONS, APPOINTMENT, TERMS — MEETINGS — QUORUM — EXPENSES. — 1. There is hereby created within the department of economic development the "Missouri Development Finance Board", which shall constitute a body corporate and politic and shall consist of twelve members, including the lieutenant governor, the director of the department of economic development, **the director of the department of natural resources**, and the director of the department of agriculture. No more than five members appointed by the governor to the board shall be of the same political party. Except for the lieutenant governor, the director of the department of economic development, **the director of the department of natural resources**, and the director of the department of agriculture, all members shall be appointed by the governor by and with the advice and consent of the senate, and shall serve for terms of four years. The persons serving as members of the Missouri economic development, export and infrastructure board on August 28, 1994, shall become members of the Missouri development finance board for terms to expire at the same time their terms would have expired if they had remained members of the Missouri economic development, export and infrastructure board. The Missouri development finance board shall replace the Missouri economic development, export and

infrastructure board. All moneys, property, any other assets or liabilities of the Missouri economic development, export and infrastructure board on August 28, 1994, shall be transferred to the Missouri development finance board. All powers, duties and functions performed by the Missouri economic development, export and infrastructure board pursuant to sections 100.250 to 100.297 shall be transferred to the Missouri development finance board.

2. Each member of the board appointed by the governor shall have resided in this state for at least five years prior to appointment. Except for the lieutenant governor, director of the department of economic development, **the director of the department of natural resources**, and the director of the department of agriculture, no person may be appointed to the board who is an elected officer or employee of the state, or any agency, board, commission, or authority established by the state.

3. The governor shall designate one of the members of the board to serve as chairman. The board shall meet at such times and places it shall designate. Seven members shall constitute a quorum. No vacancy in the membership shall impair the right of a quorum of the members to exercise all of the rights and powers and to perform all of the duties of the board.

4. Members of the board shall serve without compensation but shall be reimbursed for their reasonable and necessary expenses incurred in the performance of their duties.

100.281. PROJECT PLAN, APPROVAL PROCEDURE — BOARD TO REVIEW AND GRANT LOAN, WHEN — BORROWING POWER — SALE OF BONDS. — 1. A request for a loan from the development and reserve fund, the infrastructure development fund [or], the export finance fund, **or the jobs now fund** to fund export trade activities or to carry out a project shall be in the form of an application for the project to the board, which application shall be in such form as the board may specify. After reviewing the application and such other information as the board may require, the board may grant all or a part of the loan request, provided the board determines that:

- (1) The project will be a benefit to the economy or infrastructure of the state;
- (2) The project will generate sufficient revenues or the borrower will otherwise have sufficient revenues available to enable the borrower to repay the loan to the development and reserve fund, the infrastructure development fund [or], the export finance fund, **or the jobs now fund**, along with any interest to be charged; and
- (3) In the case of an infrastructure facility project, the loan will not exceed ten million dollars.

2. Notwithstanding any other provision of law to the contrary, all development agencies, as defined in section 100.255, shall have the power to borrow funds from the board for any project, to contract with the board, and to furnish a security interest in any of their revenues or properties to the board to secure a loan from the board and to issue notes in evidence thereof upon such terms as such development agencies shall determine.

3. When the board issues bonds to provide loans for more than one infrastructure project, the board shall make a reasonable effort to sell the bonds to a purchaser that represents a group consisting of more than one underwriter.

100.282. LIMITATIONS ON APPROVAL OF LOANS. — **The Missouri development finance board, the Missouri health and education facilities authority, the Missouri higher education loan authority, the Missouri housing development commission, and the environmental improvement and energy resources authority shall only approve loan requests from the state, any agency or department of the state, or any state educational institution if the borrower's means of repayment is readily ascertainable and reliable. With the exception of annual appropriation debt for state-owned property, the entities listed in this section shall not approve such requests if the means of repayment is contingent upon state funding that has not been granted, unless the project has been**

approved by concurrent resolution of the general assembly, or similar legislative directive or approval.

Approved June 12, 2006

SB 725 [HCS SB 725]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Permits underage culinary students to taste, but not consume, certain alcoholic beverages as required by a curriculum

AN ACT to repeal sections 311.325, 311.490, and 312.200, RSMo, and to enact in lieu thereof three new sections relating to alcoholic beverages, with penalty provisions.

SECTION

- A. Enacting clause.
- 311.325. Purchase or possession by minor, a misdemeanor — container need not be opened and contents verified, when — burden of proof on violator to prove not intoxicating liquor — section not applicable to certain students, requirements.
- 311.490. Ingredients of beer — intoxicating malt liquor.
- 312.200. Ingredients of nonintoxicating beer.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 311.325, 311.490, and 312.200, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 311.325, 311.490, and 312.200, to read as follows:

311.325. PURCHASE OR POSSESSION BY MINOR, A MISDEMEANOR — CONTAINER NEED NOT BE OPENED AND CONTENTS VERIFIED, WHEN — BURDEN OF PROOF ON VIOLATOR TO PROVE NOT INTOXICATING LIQUOR — SECTION NOT APPLICABLE TO CERTAIN STUDENTS, REQUIREMENTS. — 1. Any person under the age of twenty-one years, who purchases or attempts to purchase, or has in his or her possession, any intoxicating liquor as defined in section 311.020 or who is visibly intoxicated as defined in section 577.001, RSMo, or has a detectable blood alcohol content of more than two-hundredths of one percent or more by weight of alcohol in such person's blood is guilty of a misdemeanor. For purposes of prosecution under this section or any other provision of this chapter involving an alleged illegal sale or transfer of intoxicating liquor to a person under twenty-one years of age, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The alleged violator may allege that there was not intoxicating liquor in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor therein contains intoxicating liquor.

2. For purposes of determining violations of any provision of this chapter, or of any rule or regulation of the supervisor of alcohol and tobacco control, a manufacturer-sealed container describing that there is intoxicating liquor therein need not be opened or the contents therein tested to verify that there is intoxicating liquor in such container. The alleged violator may allege that there was not intoxicating liquor in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is intoxicating liquor therein contains intoxicating liquor.

3. The provisions of this section shall not apply to a student who:
- (1) Is eighteen years of age or older;
 - (2) Is enrolled in an accredited college or university and is a student in a culinary course;
 - (3) Is required to taste, but not consume or imbibe, any beer, ale, porter, wine, or other similar malt or fermented beverage as part of the required curriculum; and
 - (4) Tastes a beverage under subdivision (3) of subsection 3 of this section only for instructional purposes during classes that are part of the curriculum of the accredited college or university.

The beverage must at all times remain in the possession and control of an authorized instructor of the college or university, who must be twenty-one years of age or older. Nothing in this subsection may be construed to allow a student under the age of twenty-one to receive any beer, ale, porter, wine, or other similar malt or fermented beverage unless the beverage is delivered as part of the student's required curriculum and the beverage is used only for instructional purposes during classes conducted as part of the curriculum.

311.490. INGREDIENTS OF BEER — INTOXICATING MALT LIQUOR. — No person, partnership or corporation engaged in the brewing, manufacture or sale of beer as defined, in this chapter, or other intoxicating malt liquor, shall use in the manufacture or brewing thereof, or shall sell any such beer or other intoxicating malt liquor which contains [any substance, material or chemical other than pure hops, or pure extract of hops, or pure barley malt, or other wholesome grains or cereals, or wholesome yeast and pure water] **ingredients not in compliance with the following standards:**

- (1) Beer shall be brewed from malt or a malt substitute, which only includes rice, grain of any kind, bean, glucose, sugar, and molasses. Honey, fruit, fruit juices, fruit concentrate, herbs, spices, and other food materials may be used as adjuncts in fermenting beer;
- (2) Flavor and other nonbeverage ingredients containing alcohol may be used in producing beer, but may contribute to no more than forty-nine percent of the overall alcohol content of the finished beer. In the case of beer with an alcohol content of more than six percent by volume, no more than one and one-half percent of the volume of the beer may consist of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol; and
- (3) Beer, intoxicating malt liquor, and malt beverages, as defined in this section, shall not be subject to the requirements of subsections 1, 2, and 3 of section 311.332 and sections 311.334 to 311.338.

312.200. INGREDIENTS OF NONINTOXICATING BEER. — It shall be unlawful for any person in this state, engaged in the brewing or manufacture of nonintoxicating beer, to use any [substance, material or chemical in the brewing or manufacture thereof, other than pure hops or pure extract of hops, and pure barley malt or other wholesome grains or cereals, and wholesome yeast and pure water] **ingredients not in compliance with the following standards:**

- (1) Nonintoxicating beer shall be brewed from malt or a malt substitute, which only includes rice, grain of any kind, bean, glucose, sugar, and molasses. Honey, fruit, fruit juice, fruit concentrate, herbs, spices, and other food materials may be used as adjuncts in fermenting nonintoxicating beer; and

(2) **Flavors and nonbeverage ingredients containing alcohol may be used in producing nonintoxicating beer, but may contribute to no more than forty-nine percent of the overall alcohol content of the finished nonintoxicating beer.**

Approved June 9, 2006

SB 747 [SCS SB 747]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires used car dealers to complete educational seminars in order to obtain a license

AN ACT to repeal section 301.560, RSMo, and to enact in lieu thereof one new section relating to used car dealer courses.

SECTION

A. Enacting clause.

301.560. Application requirements, additional — bonds, fees, signs required — license number, certificate of numbers — duplicate dealer plates, issues, fees — test driving motor vehicles and vessels, use of plates — proof of educational seminar required, exceptions, contents of seminar.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 301.560, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 301.560, to read as follows:

301.560. APPLICATION REQUIREMENTS, ADDITIONAL — BONDS, FEES, SIGNS REQUIRED — LICENSE NUMBER, CERTIFICATE OF NUMBERS — DUPLICATE DEALER PLATES, ISSUES, FEES — TEST DRIVING MOTOR VEHICLES AND VESSELS, USE OF PLATES — PROOF OF EDUCATIONAL SEMINAR REQUIRED, EXCEPTIONS, CONTENTS OF SEMINAR. — 1. In addition to the application forms prescribed by the department, each applicant shall submit the following to the department:

(1) Every application other than a renewal application for a motor vehicle franchise dealer shall include a certification that the applicant has a bona fide established place of business. When the application is being made for licensure as a manufacturer, motor vehicle dealer, wholesale motor vehicle dealer, wholesale motor vehicle auction or a public motor vehicle auction, certification shall be performed by a uniformed member of the Missouri state highway patrol stationed in the troop area in which the applicant's place of business is located; except, that in counties of the first classification, certification may be performed by an officer of a metropolitan police department when the applicant's established place of business of distributing or selling motor vehicles or trailers is in the metropolitan area where the certifying metropolitan police officer is employed. When the application is being made for licensure as a boat manufacturer or boat dealer, certification shall be performed by a uniformed member of the Missouri state water patrol stationed in the district area in which the applicant's place of business is located or by a uniformed member of the Missouri state highway patrol stationed in the troop area in which the applicant's place of business is located or, if the applicant's place of business is located within the jurisdiction of a metropolitan police department in a first class county, by an officer of such metropolitan police department. A bona fide established place of business for any new motor vehicle franchise dealer or used motor vehicle dealer shall include a permanent enclosed building or structure, either owned in fee or leased and actually occupied as a place of

business by the applicant for the selling, bartering, trading or exchanging of motor vehicles or trailers and wherein the public may contact the owner or operator at any reasonable time, and wherein shall be kept and maintained the books, records, files and other matters required and necessary to conduct the business. The applicant's place of business shall contain a working telephone which shall be maintained during the entire registration year. In order to qualify as a bona fide established place of business for all applicants licensed pursuant to this section there shall be an exterior sign displayed carrying the name of the business set forth in letters at least six inches in height and clearly visible to the public and there shall be an area or lot which shall not be a public street on which one or more vehicles may be displayed, except when licensure is for a wholesale motor vehicle dealer, a lot and sign shall not be required. The sign shall contain the name of the dealership by which it is known to the public through advertising or otherwise, which need not be identical to the name appearing on the dealership's license so long as such name is registered as a fictitious name with the secretary of state, has been approved by its line-make manufacturer in writing in the case of a new motor vehicle franchise dealer and a copy of such fictitious name registration has been provided to the department. When licensure is for a boat dealer, a lot shall not be required. In the case of new motor vehicle franchise dealers, the bona fide established place of business shall include adequate facilities, tools and personnel necessary to properly service and repair motor vehicles and trailers under their franchisor's warranty;

(2) If the application is for licensure as a manufacturer, boat manufacturer, new motor vehicle franchise dealer, used motor vehicle dealer, wholesale motor vehicle auction, boat dealer or a public motor vehicle auction, a photograph, not to exceed eight inches by ten inches, showing the business building and sign shall accompany the initial application. In the case of a manufacturer, new motor vehicle franchise dealer or used motor vehicle dealer, the photograph shall include the lot of the business. A new motor vehicle franchise dealer applicant who has purchased a currently licensed new motor vehicle franchised dealership shall be allowed to submit a photograph of the existing dealership building, lot and sign but shall be required to submit a new photograph upon the installation of the new dealership sign as required by sections 301.550 to 301.573. Applicants shall not be required to submit a photograph annually unless the business has moved from its previously licensed location, or unless the name of the business or address has changed, or unless the class of business has changed;

(3) If the application is for licensure as a wholesale motor vehicle dealer or as a boat dealer, the application shall contain the business address, not a post office box, and telephone number of the place where the books, records, files and other matters required and necessary to conduct the business are located and where the same may be inspected during normal daytime business hours. Wholesale motor vehicle dealers and boat dealers shall file reports as required of new franchised motor vehicle dealers and used motor vehicle dealers;

(4) Every applicant as a new motor vehicle franchise dealer, a used motor vehicle dealer, a wholesale motor vehicle dealer, or boat dealer shall furnish with the application a corporate surety bond or an irrevocable letter of credit as defined in section 400.5-103, RSMo, issued by any state or federal financial institution in the penal sum of twenty-five thousand dollars on a form approved by the department. The bond or irrevocable letter of credit shall be conditioned upon the dealer complying with the provisions of the statutes applicable to new motor vehicle franchise dealers, used motor vehicle dealers, wholesale motor vehicle dealers and boat dealers, and the bond shall be an indemnity for any loss sustained by reason of the acts of the person bonded when such acts constitute grounds for the suspension or revocation of the dealer's license. The bond shall be executed in the name of the state of Missouri for the benefit of all aggrieved parties or the irrevocable letter of credit shall name the state of Missouri as the beneficiary; except, that the aggregate liability of the surety or financial institution to the aggrieved parties shall, in no event, exceed the amount of the bond or irrevocable letter of credit. The proceeds of the bond or irrevocable letter of credit shall be paid upon receipt by the department of a final

judgment from a Missouri court of competent jurisdiction against the principal and in favor of an aggrieved party;

(5) Payment of all necessary license fees as established by the department. In establishing the amount of the annual license fees, the department shall, as near as possible, produce sufficient total income to offset operational expenses of the department relating to the administration of sections 301.550 to 301.573. All fees payable pursuant to the provisions of sections 301.550 to 301.573, other than those fees collected for the issuance of dealer plates or certificates of number collected pursuant to subsection 6 of this section, shall be collected by the department for deposit in the state treasury to the credit of the "Motor Vehicle Commission Fund", which is hereby created. The motor vehicle commission fund shall be administered by the Missouri department of revenue. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in such fund shall not be transferred and placed to the credit of the general revenue fund until the amount in the motor vehicle commission fund at the end of the biennium exceeds two times the amount of the appropriation from such fund for the preceding fiscal year or, if the department requires permit renewal less frequently than yearly, then three times the appropriation from such fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the multiple of the appropriation from such fund for the preceding fiscal year.

2. In the event a new manufacturer, boat manufacturer, motor vehicle dealer, wholesale motor vehicle dealer, boat dealer, wholesale motor vehicle auction or a public motor vehicle auction submits an application for a license for a new business and the applicant has complied with all the provisions of this section, the department shall make a decision to grant or deny the license to the applicant within eight working hours after receipt of the dealer's application, notwithstanding any rule of the department.

3. Upon the initial issuance of a license by the department, the department shall assign a distinctive dealer license number or certificate of number to the applicant and the department shall issue one number plate or certificate bearing the distinctive dealer license number or certificate of number within eight working hours after presentment of the application. Upon the renewal of a boat dealer, boat manufacturer, manufacturer, motor vehicle dealer, public motor vehicle auction, wholesale motor vehicle dealer or wholesale motor vehicle auction, the department shall issue the distinctive dealer license number or certificate of number as quickly as possible. The issuance of such distinctive dealer license number or certificate of number shall be in lieu of registering each motor vehicle, trailer, vessel or vessel trailer dealt with by a boat dealer, boat manufacturer, manufacturer, public motor vehicle auction, wholesale motor vehicle dealer, wholesale motor vehicle auction or motor vehicle dealer.

4. Notwithstanding any other provision of the law to the contrary, the department shall assign the following distinctive dealer license numbers to:

New motor vehicle franchise dealers.	D-0 through D-999
New motor vehicle franchise and commercial motor vehicle.	D-1000 through D-1999
Used motor vehicle dealers.	D-2000 through D-5399 and D-6000 through D-9999
Wholesale motor vehicle dealers.	W-1000 through W-1999
Wholesale motor vehicle auctions.	W-2000 through W-2999
Trailer dealers.	T-0 through T-9999
Motor vehicle and trailer manufacturers.	M-0 through M-9999
Motorcycle dealers.	D-5400 through D-5999
Public motor vehicle auctions.	A-1000 through A-1999
Boat dealers and boat manufacturers.	B-0 through B-9999

5. Upon the sale of a currently licensed new motor vehicle franchise dealership the department shall, upon request, authorize the new approved dealer applicant to retain the selling dealer's license number and shall cause the new dealer's records to indicate such transfer.

6. In the case of manufacturers and motor vehicle dealers, the department shall also issue one number plate bearing the distinctive dealer license number to the applicant upon payment by the manufacturer or dealer of a fifty dollar fee. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. Boat dealers and boat manufacturers shall be entitled to one certificate of number bearing such number upon the payment of a fifty dollar fee. As many additional number plates as may be desired by manufacturers and motor vehicle dealers and as many additional certificates of number as may be desired by boat dealers and boat manufacturers may be obtained upon payment of a fee of ten dollars and fifty cents for each additional plate or certificate. A motor vehicle dealer, boat dealer, manufacturer, boat manufacturer, public motor vehicle auction, wholesale motor vehicle dealer or wholesale motor vehicle auction obtaining a dealer license plate or certificate of number or additional license plate or additional certificate of number, throughout the calendar year, shall be required to pay a fee for such license plates or certificates of number computed on the basis of one-twelfth of the full fee prescribed for the original and duplicate number plates or certificates of number for such dealers' licenses, multiplied by the number of months remaining in the licensing period for which the dealer or manufacturers shall be required to be licensed. In the event of a renewing dealer, the fee due at the time of renewal shall not be prorated.

7. The plates issued pursuant to subsection 3 or 6 of this section may be displayed on any motor vehicle owned and held for resale by the motor vehicle dealer or manufacturer, and used by a customer who is test driving the motor vehicle, or is used by an employee or officer, but shall not be displayed on any motor vehicle or trailer hired or loaned to others or upon any regularly used service or wrecker vehicle. Motor vehicle dealers may display their dealer plates on a tractor, truck or trailer to demonstrate a vehicle under a loaded condition.

8. The certificates of number issued pursuant to subsection 3 or 6 of this section may be displayed on any vessel or vessel trailer owned and held for resale by a boat manufacturer or a boat dealer, and used by a customer who is test driving the vessel or vessel trailer, or is used by an employee or officer, but shall not be displayed on any vessel or vessel trailer hired or loaned to others or upon any regularly used service vessel or vessel trailer. Boat dealers and manufacturers may display their certificate of number on a vessel or vessel trailer which is being transported to an exhibit or show.

9. (1) Beginning August 28, 2006, every application for the issuance of a used motor vehicle dealer's license shall be accompanied by proof that the applicant, within the last twelve months, has completed an educational seminar course approved by the department as prescribed by subdivision (2) of this subsection. Wholesale and retail auto auctions shall be exempt from the requirements of this subsection. The provisions of this subsection shall not apply to new motor vehicle franchise dealers or a motor vehicle leasing agency. The provisions of this subsection shall not apply to used motor vehicle dealers who were licensed prior to August 28, 2006.

(2) The educational seminar shall include, but is not limited to, the dealer requirements of sections 301.550 to 301.573, the rules promulgated to implement, enforce, and administer sections 301.550 to 301.570, and any other rules and regulations promulgated by the department.

Approved June 21, 2006

SB 749 [SCS SB 749]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies minimum experience requirements for interior designer registration

AN ACT to repeal section 324.409, RSMo, and to enact in lieu thereof one new section relating to interior designers.

SECTION

A. Enacting clause.

324.409. Qualifications for registration.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 324.409, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 324.409, to read as follows:

324.409. QUALIFICATIONS FOR REGISTRATION. — 1. To be a registered interior designer, a person:

(1) Shall take and pass or have passed the examination administered by the National Council for Interior Design Qualification or an equivalent examination approved by the council. In addition to proof of passage of the examination, the application shall provide substantial evidence to the council that the applicant:

(a) Is a graduate of a five-year or four-year interior design program from an accredited institution and has completed at least two years of diversified and appropriate interior design experience; or

(b) Has completed at least three years of an interior design curriculum from an accredited institution and has completed at least three years of diversified and appropriate interior design experience; or

(c) Is a graduate of a two-year interior design program from an accredited institution and has completed at least four years of diversified and appropriate interior design experience; or

(2) May qualify who is currently registered pursuant to sections 327.091 to 327.171, RSMo, and section 327.401, RSMo, pertaining to the practice of architecture and registered with the council. Such applicant shall give authorization to the council in order to verify current registration with sections 327.091 to 327.171, RSMo, and section 327.401, RSMo, pertaining to the practice of architecture.

2. Verification of experience required pursuant to this section shall be based on a minimum of [five] **two** client references, business or employment verification and [five] **three** industry references, submitted to the council.

3. The council shall verify if an applicant has complied with the provisions of this section and has paid the required fees, then the council shall recommend such applicant be registered as a registered interior designer by the council.

Approved June 29, 2006

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows the City of Corder to sell property purchased from the school district for any purpose after 25 years

AN ACT to repeal section 177.091, RSMo, and to enact in lieu thereof one new section relating to public school property.

SECTION

A. Enacting clause.

177.091. Elementary and high schools, establishment — acquisition of additional grounds — sale of property, distribution of proceeds.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 177.091, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 177.091, to read as follows:

177.091. ELEMENTARY AND HIGH SCHOOLS, ESTABLISHMENT — ACQUISITION OF ADDITIONAL GROUNDS — SALE OF PROPERTY, DISTRIBUTION OF PROCEEDS. — 1. The school board in each seven-director district, as soon as sufficient funds are provided, shall establish an adequate number of elementary schools, and if the demands of the district require more than one elementary school building, the board shall divide the district into elementary school wards and fix the boundaries thereof. The board shall select and procure a site in each ward and erect and furnish a suitable school building thereon.

2. The board may also establish high schools and may select and procure sites and erect and furnish buildings therefor.

3. The board may acquire additional grounds when needed for school purposes. If the directors of both school districts involved agree, such grounds may be located outside of the boundaries of the district and operated for school purposes.

4. If there is any school property, the ownership of which is vested in the district, that is no longer required for the use of the district, the board, by an affirmative vote of a majority of the whole board, may authorize and direct the sale or lease of the property, except that, property outside the boundaries of the school district may not be leased. Real property may be sold or leased by listing the property with one or more real estate brokers licensed by the state of Missouri and paying a commission upon such sale or lease. Real property not sold or leased through a real estate broker and all personal property, unless sold or leased to a public institution of higher education, shall be sold or leased to the highest bidder. If real property is not sold or leased through a real estate broker, notice that the board is holding the property for sale or offering it for lease shall be given by publication in a newspaper within the county in which all or a part of the district is located which has general circulation within the district, once a week for two consecutive weeks, the last publication to be at least seven days prior to the sale or lease of the property; except that, any real or personal school property may be sold or leased to a city, state agency, municipal corporation, or other governmental subdivision of the state located within the boundaries of the district, for public uses and purposes, by the giving of public notice as herein provided and at such sum as may be agreed upon between the school district and the city, state agency, municipal corporation, or other governmental subdivision of the state. The lease or deed of conveyance shall be executed by the president and attested by the secretary of the board. If the district has a seal, it shall be affixed to the deed or lease. The proceeds derived from the sale of real property or nonrealty by districts identified as financially stressed pursuant to section 161.520, RSMo, shall, until July 1, 1998, be placed to the credit of the incidental fund or the capital projects fund of the district, with notice of any such sale to be included in the

budget and education plan submitted to the department of elementary and secondary education, and, on and after July 1, 1998, any such proceeds shall be placed to the credit of the capital projects fund. The proceeds from the sale of real property or nonrealty and from leases, by any other district, shall be placed to the credit of the capital projects fund.

5. **Notwithstanding the provisions of subsection 4 of this section to the contrary, after twenty-five years from the date of purchase, any city of the fourth classification with more than four hundred but fewer than five hundred inhabitants and located in any county of the fourth classification with more than thirty-two thousand nine hundred but fewer than thirty-three thousand inhabitants located within the boundaries of a school district that has purchased any real or personal school property from the school district for public uses and purposes, as provided in subsection 4 of this section, may sell the property or use the property for whatever purpose such city deems necessary.**

6. The school board of a seven-director district may also list real property for sale on which a building has been constructed by an approved vocational education class with a real estate broker licensed by the state of Missouri and pay a commission thereon.

[6.] 7. Other provisions of this section to the contrary notwithstanding, bids for the purchase of any building constructed by students as part of an approved vocational education class may be accepted prior to completion of such construction.

Approved June 9, 2006

SB 756 [CCS HCS SCS SB 756]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies requirements for licensure of athletic trainers

AN ACT to repeal sections 195.017, 324.245, 324.247, 324.257, 324.262, 324.265, 324.270, 332.071, 334.103, 334.104, 334.706, 334.708, 334.715, 334.721, 337.500, 337.510, 337.615, 340.222, 340.234, 621.100, and 621.110, RSMo, and to enact in lieu thereof twenty-two new sections relating to licensing and registration of certain professionals.

SECTION

- A. Enacting clause.
- 195.017. Substances, how placed in schedules — list of scheduled substances — publication of schedules annually — electronic log of transactions to be maintained, when — certain products to be located behind pharmacy counter — exemption from requirements, when — rulemaking authority.
- 324.245. Authority of board — rulemaking — massage therapy fund.
- 324.247. Massage business, license required, application, fee, discipline for failure to obtain.
- 324.257. Report of inspection findings, deficiencies — complaint.
- 324.262. Refusal to issue, suspension or revocation of license of business or therapist, when — procedure — limitation of liability.
- 324.265. Massage therapists, qualifications of applicants — waiver, when — licensure term, renewal — student license, when — provisional license, when — exemptions — exemptions for certain therapists licensed in other jurisdictions.
- 324.270. Massage or body work titles prohibited, when — division or board may contract for legal services for enforcement of chapter.
- 332.052. Dental records required, printed for review — records maintained for minimum of seven years — corrections to be clearly identified — laboratory work orders maintained.
- 332.071. Practice of dentistry defined.
- 334.103. Automatic revocation or reinstatement of license, grounds.
- 334.104. Collaborative practice arrangements, form, delegation of authority — rules, approval, restrictions — disciplinary actions — notice of collaborative practice or physician assistant agreements to board, when — nurses may provide anesthesia services, when.

- 334.706. Board of healing arts, powers and duties — rules and regulations, procedure.
- 334.708. Qualifications of athletic trainers seeking licensure.
- 334.715. Refusal — suspension — revocation of license, grounds — reinstatement, procedure.
- 334.721. Athletic trainers not to be construed as practicing medicine — persons exempt from registration provision.
- 337.500. Definitions.
- 337.510. Requirements for licensure — reciprocity — provisional professional counselor license issued, when, requirements — renewal license fee.
- 337.615. Education, experience requirements — reciprocity — licenses issued, when.
- 340.222. Supervisor responsible and liable, when.
- 340.234. Examination — licensure without examination.
- 621.100. Complaints — notice — agency may retain counsel — affidavit regarding licensee's status, procedure.
- 621.110. Commission's findings and recommendations — hearing by agency on disciplinary action.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 195.017, 324.245, 324.247, 324.257, 324.262, 324.265, 324.270, 332.071, 334.103, 334.104, 334.706, 334.708, 334.715, 334.721, 337.500, 337.510, 337.615, 340.222, 340.234, 621.100, and 621.110, RSMo, are repealed and twenty-two new sections enacted in lieu thereof, to be known as sections 195.017, 324.245, 324.247, 324.257, 324.262, 324.265, 324.270, 332.052, 332.071, 334.103, 334.104, 334.706, 334.708, 334.715, 334.721, 337.500, 337.510, 337.615, 340.222, 340.234, 621.100, and 621.110, to read as follows:

195.017. SUBSTANCES, HOW PLACED IN SCHEDULES — LIST OF SCHEDULED SUBSTANCES — PUBLICATION OF SCHEDULES ANNUALLY — ELECTRONIC LOG OF TRANSACTIONS TO BE MAINTAINED, WHEN — CERTAIN PRODUCTS TO BE LOCATED BEHIND PHARMACY COUNTER — EXEMPTION FROM REQUIREMENTS, WHEN — RULEMAKING AUTHORITY. — 1. The department of health and senior services shall place a substance in Schedule I if it finds that the substance:

- (1) Has high potential for abuse; and
- (2) Has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

2. Schedule I:

- (1) The controlled substances listed in this subsection are included in Schedule I;
- (2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

- (a) Acetyl-alpha-methylfentanyl;
- (b) Acetylmethadol;
- (c) Allylprodine;
- (d) Alphacetylmethadol;
- (e) Alphameprodine;
- (f) Alphamethadol;
- (g) Alpha-methylfentanyl;
- (h) Alpha-methylthiofentanyl;
- (i) Benzethidine;
- (j) Betacetylmethadol;
- (k) Beta-hydroxyfentanyl;
- (l) Beta-hydroxy-3-methylfentanyl;
- (m) Betameprodine;
- (n) Betamethadol;
- (o) Betaprodine;
- (p) Clonitazene;
- (q) Dextromoramide;

- (r) Diampromide;
- (s) Diethylthiambutene;
- (t) Difenoxin;
- (u) Dimenoxadol;
- (v) Dimepheptanol;
- (w) Dimethylthiambutene;
- (x) Dioxaphetyl butyrate;
- (y) Dipipanone;
- (z) Ethylmethylthiambutene;
- (aa) Etonitazene;
- (bb) Etoperidine;
- (cc) Furethidine;
- (dd) Hydroxypethidine;
- (ee) Ketobemidone;
- (ff) Levomoramide;
- (gg) Levophenacymorphan;
- (hh) 3-Methylfentanyl;
- (ii) 3-Methylthiofentanyl;
- (jj) Morpheridine;
- (kk) MPPP;
- (ll) Noracymethadol;
- (mm) Norlevorphanol;
- (nn) Normethadone;
- (oo) Norpipanone;
- (pp) Para-fluorofentanyl;
- (qq) PEPAP;
- (rr) Phenadoxone;
- (ss) Phenampromide;
- (tt) Phenomorphan;
- (uu) Phenoperidine;
- (vv) Piritramide;
- (ww) Proheptazine;
- (xx) Properidine;
- (yy) Propiram;
- (zz) Racemoramide;
- (aaa) Thiofentanyl;
- (bbb) Tilidine;
- (ccc) Trimeperidine;

(3) Any of the following opium derivatives, their salts, isomers and salts of isomers unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

- (a) Acetorphine;
 - (b) Acetyldihydrocodeine;
 - (c) Benzylmorphine;
 - (d) Codeine methylbromide;
 - (e) Codeine-N-Oxide;
 - (f) Cyprenorphine;
 - (g) Desomorphine;
 - (h) Dihydromorphine;
 - (i) Drotebanol;
 - (j) Etorphine; (except Hydrochloride Salt);
 - (k) Heroin;
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- (l) Hydromorphenol;
- (m) Methyl-desorphine;
- (n) Methyl-dihydromorphenol;
- (o) Morphine methylbromide;
- (p) Morphine methyl sulfonate;
- (q) Morphine-N-Oxide;
- (r) Morphine;
- (s) Nicocodeine;
- (t) Nicomorphine;
- (u) Normorphine;
- (v) Pholcodine;
- (w) Thebacon;
- (4) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:
 - (a) 4-bromo-2,5-dimethoxyamphetamine;
 - (b) 4-bromo-2, 5-dimethoxyphenethylamine;
 - (c) 2,5-dimethoxyamphetamine;
 - (d) 2,5-dimethoxy-4-ethylamphetamine;
 - (e) 2,5-dimethoxy-4-(n)-propylthiophenethylamine;
 - (f) 4-methoxyamphetamine;
 - (g) 5-methoxy-3,4-methylenedioxyamphetamine;
 - (h) 4-methyl-2,5-dimethoxy amphetamine;
 - (i) 3,4-methylenedioxyamphetamine;
 - (j) 3,4-methylenedioxymethamphetamine;
 - (k) 3,4-methylenedioxy-N-ethylamphetamine;
 - (l) N-nydroxy-3, 4-methylenedioxyamphetamine;
 - (m) 3,4,5-trimethoxyamphetamine;
 - (n) Alpha-ethyltryptamine;
 - (o) Benzylpiperazine or B.P.;
 - (p) Bufotenine;
 - (q) Diethyltryptamine;
 - (r) Dimethyltryptamine;
 - (s) Ibogaine;
 - (t) Lysergic acid diethylamide;
 - (u) Marijuana; (Marihuana);
 - (v) Mescaline;
 - (w) Parahexyl;
 - (x) Peyote, to include all parts of the plant presently classified botanically as *Lophophora Williamsii* Lemaire, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seed or extracts;
 - (y) N-ethyl-3-piperidyl benzilate;
 - (z) N-methyl-3-piperidyl benzilate;
 - (aa) Psilocybin;
 - (bb) Psilocyn;
 - (cc) Tetrahydrocannabinols;
 - (dd) Ethylamine analog of phencyclidine;
 - (ee) Pyrrolidine analog of phencyclidine;
 - (ff) Thiophene analog of phencyclidine;
 - (gg) 1-(3-Trifluoromethylphenyl)piperazine or TFMPP;

- (hh) 1-(1-(2-thienyl)cyclohexyl) pyrrolidine;
 - (ii) *Salvia divinorum*;
 - (jj) Salvinorin A;
 - (5) Any material, compound, mixture or preparation containing any quantity of the following substances having a depressant effect on the central nervous system, including their salts, isomers and salts of isomers whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:
 - (a) Gamma hydroxybutyric acid;
 - (b) Mecloqualone;
 - (c) Methaqualone;
 - (6) Any material, compound, mixture or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers and salts of isomers:
 - (a) Aminorex;
 - (b) Cathinone;
 - (c) Fenethylamine;
 - (d) Methcathinone;
 - (e) (+)cis-4-methylaminorex ((+)cis-4,5-dihydro- 4-methyl-5-phenyl-2-oxazoline);
 - (f) N-ethylamphetamine;
 - (g) N,N-dimethylamphetamine;
 - (7) A temporary listing of substances subject to emergency scheduling under federal law shall include any material, compound, mixture or preparation which contains any quantity of the following substances:
 - (a) N-(1-benzyl-4-piperidyl)-N-phenyl-propanamide (benzylfentanyl), its optical isomers, salts and salts of isomers;
 - (b) N-(1-(2-thienyl)methyl-4-piperidyl)-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts and salts of isomers;
 - (c) Alpha-Methyltryptamine, or (AMT);
 - (d) 5-Methoxy-N,N-Diisopropyltryptamine, or(5-MeO-DIPT);
 - (8) Khat, to include all parts of the plant presently classified botanically as *catha edulis*, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seed or extracts.
3. The department of health and senior services shall place a substance in Schedule II if it finds that:
- (1) The substance has high potential for abuse;
 - (2) The substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and
 - (3) The abuse of the substance may lead to severe psychic or physical dependence.
4. The controlled substances listed in this subsection are included in Schedule II:
- (1) Any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:
 - (a) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrophan, nalbuphine, nalmefene, naloxone and naltrexone, and their respective salts but including the following:
 - a. Raw opium;
 - b. Opium extracts;
 - c. Opium fluid;
 - d. Powdered opium;
 - e. Granulated opium;
 - f. Tincture of opium;
 - g. Codeine;

- h. Ethylmorphine;
- i. Etorphine hydrochloride;
- j. Hydrocodone;
- k. Hydromorphone;
- l. Metopon;
- m. Morphine;
- n. Oxycodone;
- o. Oxymorphone;
- p. Thebaine;
- (b) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in this subdivision, but not including the isoquinoline alkaloids of opium;
- (c) Opium poppy and poppy straw;
- (d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine;
- (e) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrene alkaloids of the opium poppy);
- (2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation, dextrophan and levopropoxyphene excepted:
 - (a) Alfentanil;
 - (b) Alphaprodine;
 - (c) Anileridine;
 - (d) Bezitramide;
 - (e) Bulk Dextropropoxyphene;
 - (f) Carfentanil;
 - (g) Butyl nitrite;
 - (h) Dihydrocodeine;
 - (i) Diphenoxylate;
 - (j) Fentanyl;
 - (k) Isomethadone;
 - (l) Levo-alphacetylmethadol;
 - (m) Levomethorphan;
 - (n) Levorphanol;
 - (o) Metazocine;
 - (p) Methadone;
 - (q) Meperidine;
 - (r) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenylbutane;
 - (s) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane — carboxylic acid;
 - (t) Pethidine;
 - (u) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
 - (v) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
 - (w) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
 - (x) Phenazocine;
 - (y) Piminodine;
 - (z) Racemethorphan;
 - (aa) Racemorphan;
 - (bb) Sufentanil;

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

- (a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- (b) Methamphetamine, its salts, isomers, and salts of its isomers;
- (c) Phenmetrazine and its salts;
- (d) Methylphenidate;

(4) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (a) Amobarbital;
- (b) Glutethimide;
- (c) Pentobarbital;
- (d) Phencyclidine;
- (e) Secobarbital;
- (5) Any material, compound or compound which contains any quantity of nabilone;
- (6) Any material, compound, mixture, or preparation which contains any quantity of the

following substances:

- (a) Immediate precursor to amphetamine and methamphetamine: Phenylacetone;
- (b) Immediate precursors to phencyclidine (PCP):
 - a. 1-phenylcyclohexylamine;
 - b. 1-piperidinocyclohexanecarbonitrile (PCC).

5. The department of health and senior services shall place a substance in Schedule III if it finds that:

- (1) The substance has a potential for abuse less than the substances listed in Schedules I and II;
- (2) The substance has currently accepted medical use in treatment in the United States; and
- (3) Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

6. The controlled substances listed in this subsection are included in Schedule III:

(1) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

- (a) Benzphetamine;
- (b) Chlorphentermine;
- (c) Clortermine;
- (d) Phendimetrazine;

(2) Any material, compound, mixture or preparation which contains any quantity or salt of the following substances or salts having a depressant effect on the central nervous system:

(a) Any material, compound, mixture or preparation which contains any quantity or salt of the following substances combined with one or more active medicinal ingredients:

- a. Amobarbital;
- b. Gamma hydroxybutyric acid and its salts, isomers, and salts of isomers contained in a drug product for which an application has been approved under Section 505 of the Federal Food, Drug, and Cosmetic Act;

- c. Secobarbital;
- d. Pentobarbital;

(b) Any suppository dosage form containing any quantity or salt of the following:

- a. Amobarbital;
- b. Secobarbital;
- c. Pentobarbital;

(c) Any substance which contains any quantity of a derivative of barbituric acid or its salt;

- (d) Chlorhexadol;
- (e) Ketamine, its salts, isomers, and salts of isomers;
- (f) Lysergic acid;
- (g) Lysergic acid amide;
- (h) Methypylon;
- (i) Sulfondiethylmethane;
- (j) Sulfonethylmethane;
- (k) Sulfonmethane;
- (l) Tiletamine and zolazepam or any salt thereof;
- (3) Nalorphine;
- (4) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs or their salts:
 - (a) Not more than 1.8 grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;
 - (b) Not more than 1.8 grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
 - (c) Not more than three hundred milligrams of hydrocodone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;
 - (d) Not more than three hundred milligrams of hydrocodone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;
 - (e) Not more than 1.8 grams of dihydrocodeine per one hundred milliliters or more than ninety milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;
 - (f) Not more than three hundred milligrams of ethylmorphine per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
 - (g) Not more than five hundred milligrams of opium per one hundred milliliters or per one hundred grams or not more than twenty-five milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;
 - (h) Not more than fifty milligrams of morphine per one hundred milliliters or per one hundred grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;
- (5) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts, as set forth in subdivision (6) of this subsection; buprenorphine;
- (6) Anabolic steroids. Any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, except an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for that administration. If any person prescribes, dispenses, or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this paragraph. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any quantity of the following substances, including its salts, isomers and salts of isomers whenever the existence of such salts of isomers is possible within the specific chemical designation:
 - (a) Boldenone;
 - (b) Chlorotestosterone (4-Chlortestosterone);
 - (c) Clostebol;

- (d) Dehydrochlormethyltestosterone;
- (e) Dihydrotestosterone (4-Dihydro-testosterone);
- (f) Drostanolone;
- (g) Ethylestrenol;
- (h) Fluoxymesterone;
- (i) Formebolone (Formebolone);
- (j) Mesterolone;
- (k) Methandienone;
- (l) Methandranone;
- (m) Methandriol;
- (n) Methandrostenolone;
- (o) Methenolone;
- (p) Methyltestosterone;
- (q) Mibolerone;
- (r) Nandrolone;
- (s) Norethandrolone;
- (t) Oxandrolone;
- (u) Oxymesterone;
- (v) Oxymetholone;
- (w) Stanolone;
- (x) Stanozolol;
- (y) Testolactone;
- (z) Testosterone;
- (aa) Trenbolone;

(bb) Any salt, ester, or isomer of a drug or substance described or listed in this subdivision, if that salt, ester or isomer promotes muscle growth except an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for that administration;

(7) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved drug product. Some other names for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro-6.6.9-trimethyl-3-pentyl-6H-dibenzo (b,d) pyran-1-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol);

(8) The department of health and senior services may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subdivisions (1) and (2) of this subsection from the application of all or any part of sections 195.010 to 195.320 if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

7. The department of health and senior services shall place a substance in Schedule IV if it finds that:

- (1) The substance has a low potential for abuse relative to substances in Schedule III;
- (2) The substance has currently accepted medical use in treatment in the United States; and
- (3) Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III.

8. The controlled substances listed in this subsection are included in Schedule IV:

(1) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

- (a) Not more than one milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(b) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane);

(c) Any of the following limited quantities of narcotic drugs or their salts, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

a. Not more than two hundred milligrams of codeine per one hundred milliliters or per one hundred grams;

b. Not more than one hundred milligrams of dihydrocodeine per one hundred milliliters or per one hundred grams;

c. Not more than one hundred milligrams of ethylmorphine per one hundred milliliters or per one hundred grams;

(2) Any material, compound, mixture or preparation containing any quantity of the following substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (a) Alprazolam;
- (b) Barbitol;
- (c) Bromazepam;
- (d) Camazepam;
- (e) Chloral betaine;
- (f) Chloral hydrate;
- (g) Chlordiazepoxide;
- (h) Clobazam;
- (i) Clonazepam;
- (j) Clorazepate;
- (k) Clotiazepam;
- (l) Cloxazolam;
- (m) Delorazepam;
- (n) Diazepam;
- (o) Dichloralphenazone;
- (p) Estazolam;
- (q) Ethchlorvynol;
- (r) Ethinamate;
- (s) Ethyl loflazepate;
- (t) Fludiazepam;
- (u) Flunitrazepam;
- (v) Flurazepam;
- (w) Halazepam;
- (x) Haloxazolam;
- (y) Ketazolam;
- (z) Loprazolam;
- (aa) Lorazepam;
- (bb) Lormetazepam;
- (cc) Mebutamate;
- (dd) Medazepam;
- (ee) Meprobamate;
- (ff) Methohexital;
- (gg) Methylphenobarbital;
- (hh) Midazolam;
- (ii) Nimetazepam;
- (jj) Nitrazepam;
- (kk) Nordiazepam;

- (ll) Oxazepam;
- (mm) Oxazolam;
- (nn) Paraldehyde;
- (oo) Petrichloral;
- (pp) Phenobarbital;
- (qq) Pinazepam;
- (rr) Prazepam;
- (ss) Quazepam;
- (tt) Temazepam;
- (uu) Tetrazepam;
- (vv) Triazolam;
- (ww) Zaleplon;
- (xx) Zolpidem;

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substance including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible: fenfluramine;

(4) Any material, compound, mixture or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers and salts of isomers:

- (a) Cathine ((+)-norpseudoephedrine);
- (b) Diethylpropion;
- (c) Fencamfamin;
- (d) Fenproporex;
- (e) Mazindol;
- (f) Mefenorex;
- (g) Modafinil;
- (h) Pemoline, including organometallic complexes and chelates thereof;
- (i) Phentermine;
- (j) Pipradrol;
- (k) Sibutramine;
- (l) SPA ((-)-1-dimethylamino-1,2-diphenylethane);

(5) Any material, compound, mixture or preparation containing any quantity of the following substance, including its salts:

- (a) butorphanol;
- (b) pentazocine;

(6) Ephedrine, its salts, optical isomers and salts of optical isomers, when the substance is the only active medicinal ingredient;

(7) The department of health and senior services may except by rule any compound, mixture, or preparation containing any depressant substance listed in subdivision (1) of this subsection from the application of all or any part of sections 195.010 to 195.320 if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

9. The department of health and senior services shall place a substance in Schedule V if it finds that:

(1) The substance has low potential for abuse relative to the controlled substances listed in Schedule IV;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) The substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.

10. The controlled substances listed in this subsection are included in Schedule V:

(1) Any compound, mixture or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(a) Not more than two and five-tenths milligrams of diphenoxylate and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(b) Not more than one hundred milligrams of opium per one hundred milliliters or per one hundred grams;

(c) Not more than five-tenths milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(2) Any material, compound, mixture or preparation which contains any quantity of the following substance having a stimulant effect on the central nervous system including its salts, isomers and salts of isomers: pyrovalerone;

(3) Any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine or its salts or optical isomers, or salts of optical isomers or any compound, mixture, or preparation containing any detectable quantity of ephedrine or its salts or optical isomers, or salts of optical isomers.

11. If any compound, mixture, or preparation as specified in subdivision (3) of subsection 10 of this section is dispensed, sold, or distributed in a pharmacy without a prescription:

(1) All packages of any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers or ephedrine, its salts or optical isomers, or salts of optical isomers, shall be offered for sale only from behind a pharmacy counter where the public is not permitted, and only by a registered pharmacist or registered pharmacy technician; and

(2) Any person purchasing, receiving or otherwise acquiring any compound, mixture, or preparation containing any detectable quantity of pseudoephedrine, its salts or optical isomers, or salts of optical isomers or ephedrine, its salts or optical isomers, or salts of optical isomers shall be at least eighteen years of age; and

(3) The pharmacist or registered pharmacy technician shall require any person purchasing, receiving or otherwise acquiring such compound, mixture, or preparation, who is not known to the pharmacist or registered pharmacy technician, to furnish suitable photo identification showing the date of birth of the person.

12. Within ninety days of the enactment of this section, pharmacists and registered pharmacy technicians shall implement and maintain a written or electronic log of each transaction. Such log shall include the following information:

(1) The name and address of the purchaser;

(2) The amount of the compound, mixture, or preparation purchased;

(3) The date of each purchase; and

(4) The name or initials of the pharmacist or registered pharmacy technician who dispensed the compound, mixture, or preparation to the purchaser.

13. No person shall dispense, sell, purchase, receive, or otherwise acquire quantities greater than those specified in this chapter.

14. Within thirty days of the enactment of this section, all persons who dispense or offer for sale pseudoephedrine and ephedrine products in a pharmacy shall ensure that all such products are located only behind a pharmacy counter where the public is not permitted.

15. Within thirty days of the enactment of this section, any business entity which sells ephedrine or pseudoephedrine products in the course of legitimate business which is in the possession of pseudoephedrine and ephedrine products, and which does not have a state and federal controlled substances registration, shall return these products to a manufacturer or distributor or transfer them to an authorized controlled substances registrant.

16. Any person who knowingly or recklessly violates the provisions of subsections 11 to 15 of this section is guilty of a class A misdemeanor.

17. The scheduling of substances specified in subdivision (3) of subsection 10 of this section and subsections 11, 12, 14, and 15 of this section shall not apply to any compounds, mixtures, or preparations that are in liquid or liquid-filled gel capsule form **or to any compound, mixture, or preparation specified in subdivision (3) of subsection 10 of this section which must be dispensed, sold, or distributed in a pharmacy pursuant to a prescription.**

18. The manufacturer of a drug product or another interested party may apply with the department of health and senior services for an exemption from this section. The department of health and senior services may grant an exemption by rule from this section if the department finds the drug product is not used in the illegal manufacture of methamphetamine or other controlled or dangerous substances. The department of health and senior services shall rely on reports from law enforcement and law enforcement evidentiary laboratories in determining if the proposed product can be used to manufacture illicit controlled substances.

19. The department of health and senior services shall revise and republish the schedules annually.

20. The department of health and senior services shall promulgate rules under chapter 536, RSMo, regarding the security and storage of Schedule V controlled substances, as described in subdivision (3) of subsection 10 of this section, for distributors as registered by the department of health and senior services.

324.245. AUTHORITY OF BOARD — RULEMAKING — MASSAGE THERAPY FUND. — 1. The board is authorized to promulgate rules and regulations regarding:

(1) The content of license applications and the procedures for filing an application for an initial or renewal license in this state;

(2) The content, conduct and administration of the licensing examination required by section 324.265;

(3) Educational requirements for licensure, including, but not limited to, provisions that allow clock hours of supervised instruction at a vocational-technical school;

(4) The standards and methods to be used in assessing competency as a massage therapist;

(5) All applicable fees, set at an amount which shall not substantially exceed the cost and expense of administering sections 324.240 to 324.275; [and]

(6) Establishment of procedures for granting reciprocity with other states, including states which do not have massage therapy licensing laws or states whose licensing laws are not substantially the same as those of this state; **and**

(7) **Establishment of requirements for granting a license, as defined by rule, to a person who has completed an approved massage therapy program in another state that is less than five hundred hours.**

2. All funds received by the board pursuant to the provisions of sections 324.240 to 324.275 shall be collected by the director who shall transmit the funds to the department of revenue for deposit in the state treasury to the credit of the "Massage Therapy Fund" which is hereby created. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds three times the amount of the appropriation from the fund for the preceding fiscal year.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated to administer and enforce sections 324.240 to 324.275, shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after August 28, 1998. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held

unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this section shall affect the validity of any rule adopted and promulgated prior to August 28, 1998.

324.247. MESSAGE BUSINESS, LICENSE REQUIRED, APPLICATION, FEE, DISCIPLINE FOR FAILURE TO OBTAIN. — A person desiring to receive a license to operate a massage business in the state of Missouri shall file a written application with the board on a form prescribed by the division and pay the appropriate required fee. **It shall be unlawful for a business to employ or contract with any person in this state to provide massage therapy as defined in subdivision (7) of section 324.240 unless such person has obtained a license as provided by this chapter. Failure to comply with the provisions of this section shall be cause to discipline the licensee.**

324.257. REPORT OF INSPECTION FINDINGS, DEFICIENCIES — COMPLAINT. — After completion of each board survey inspection, a written report of the findings with respect to the massage business' compliance or noncompliance with the provisions of sections 324.240 to 324.275 and the standards established hereunder as well as a list of deficiencies found shall be prepared. A copy of the report and the list of deficiencies found shall be sent to the massage business within [fifteen] **thirty** business days following the survey inspection. The list of deficiencies shall specifically state the statute or rule which the massage business is alleged to have violated. If the massage business acknowledges the deficiencies found by the survey inspection, the massage business shall inform the board of the time necessary for compliance and shall file a plan of correction with the board. If the massage business does not acknowledge the deficiencies, or file an acceptable plan of correction with the board or timely complete an acceptable plan of correction, the board may file a complaint with the administrative hearing commission as set forth and as provided in sections 324.240 to 324.275.

324.262. REFUSAL TO ISSUE, SUSPENSION OR REVOCATION OF LICENSE OF BUSINESS OR THERAPIST, WHEN — PROCEDURE — LIMITATION OF LIABILITY. — 1. The board may refuse to issue, renew or reinstate any license required by sections 324.240 to 324.275 for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any license issued pursuant to sections 324.240 to 324.275 or any person who has failed to renew or has surrendered his or her license for any one or any combination of the following causes:

(1) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of the profession regulated pursuant to sections 324.240 to 324.275, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(2) Use of fraud, deception, misrepresentation or bribery in securing any license issued pursuant to sections 324.240 to 324.275 or in obtaining permission to take any examination given or required pursuant to sections 324.240 to 324.275;

(3) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(4) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of the profession regulated by sections 324.240 to 324.275;

(5) Violation of, or assisting or enabling any person to violate, any provision of sections 324.240 to 324.275, or of any lawful rule or regulation adopted pursuant to sections 324.240 to 324.275, **including providing massage therapy under subdivision (7) of section 324.240 at a massage business as defined in subdivision (5) of section 324.240 that is not licensed under this chapter;**

(6) Impersonation of any person holding a license or allowing any other person to use his or her certificate or diploma from any school;

(7) Disciplinary action against the holder of a license or other right to practice the profession regulated by sections 324.240 to 324.275 granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(8) A person is finally adjudged insane or incompetent by a court of competent jurisdiction;

(9) Issuance of a license based upon a material mistake of fact;

(10) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed.

3. Any person, organization, association or corporation who reports or provides information to the division pursuant to the provisions of sections 324.240 to 324.275 and who does so in good faith and without negligence shall not be subject to an action for civil damages as a result thereof.

4. After the filing of a complaint pursuant to subsection 2 of this section, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that one or more of the grounds for disciplinary action provided in subsection 2 of this section are met, the board may, singly or in combination, censure or place the person named in the complaint on probation or suspension or revoke the license of the person on such terms and conditions as the division deems appropriate.

324.265. MASSAGE THERAPISTS, QUALIFICATIONS OF APPLICANTS — WAIVER, WHEN — LICENSURE TERM, RENEWAL — STUDENT LICENSE, WHEN — PROVISIONAL LICENSE, WHEN — EXEMPTIONS — EXEMPTIONS FOR CERTAIN THERAPISTS LICENSED IN OTHER JURISDICTIONS. — 1. A person desiring a license to practice massage therapy shall be at least eighteen years of age, shall pay the appropriate required application fee, and shall submit satisfactory evidence to the board of meeting at least one of the following requirements:

(1) Has passed a statistically valid examination on therapeutic massage and body work which is approved by the board, prior to August 28, 1999, and applies for such license by December 31, 2000; or

(2) Completing massage therapy studies consisting of at least five hundred hours of supervised instruction and subsequently passing an examination approved by the board. The examination may consist of school examinations. The course of instruction shall be approved by the board. The five hundred hours shall consist of three hundred hours dedicated to massage theory and practice techniques, one hundred hours dedicated to the study of anatomy and physiology, fifty hours dedicated to business practice, professional ethics, hygiene and massage law in the state of Missouri, and fifty hours dedicated to ancillary therapies, including cardiopulmonary resuscitation (CPR) and first aid; or

(3) Has completed five hundred hours in an apprenticeship with a certified mentor and has successfully passed an examination approved by the board; or

(4) Has been licensed or registered as a massage therapist in another state, territory or commonwealth or the District of Columbia, which maintains standards of practice and licensure which substantially conform to the requirements in force in this state;

(5) Has been engaged in the practice of massage therapy for at least ten years prior to August 28, 1999, and applies for such license by December 31, 2000; or

(6) Has been in the practice of massage therapy for at least three years prior to August 28, 1999, has completed at least one hundred hours of formal training in massage approved by the board and applies for such license by December 31, 2000.

2. A person who has practiced less than three years or has less than one hundred hours of training may request a waiver of the requirements of subsection 1 of this section and apply for a temporary two-year license which shall not be renewable. By the end of such two-year period, such person shall complete at least one hundred additional hours of formal training, including at least twenty-five hours in anatomy and physiology, in a school approved by the board. Such person shall have until December 31, 2000, to apply for a temporary license pursuant to this subsection.

3. Each license issued pursuant to the provisions of this section shall [be valid for two years and shall] expire on its renewal date. The board shall renew any license upon:

- (1) Application for renewal;
- (2) Proof, **as provided by rule**, that the therapist has completed twelve hours of continuing education; and
- (3) Payment of the appropriate renewal fee.

Failure to obtain the required continuing education hours, submit satisfactory evidence, or maintain required documentation is a violation of this subsection. As provided by rule, the board may waive or extend the time requirements for completion of continuing education for reasons related to health, military service, foreign residency, or other good cause. All requests for waivers or extensions of time shall be made in writing and submitted to the board before the renewal date.

4. An applicant who possesses the qualifications specified in subsection 2 of this section to take the examination approved by the board may be granted a provisional license to engage in the practice of massage therapy until the date of the next examination, and thereafter until the results of the examination are known.

5. As determined by the board, students making substantial progress toward completion of their training in an approved curriculum shall be granted a student license for the purpose of practicing massage therapy on the public while under the supervision of a massage therapy instructor.

6. A provisional license may, at the discretion of the board, be renewed once, and a student license may be renewed until the student completes such student's training.

7. The following practitioners are exempt from the provisions of this section upon filing written proof with the board that they meet one or more of the following:

- (1) Persons who act under a Missouri state license, registration, or certification and perform soft tissue manipulation within their scope of practice;
- (2) Persons who restrict their manipulation of the soft tissues of the human body to the hands, feet or ears;
- (3) Persons who use touch and words to deepen awareness of existing patterns of movement in the human body as well as to suggest new possibilities of movement;
- (4) Persons who manipulate the human body above the neck, below the elbow, and below the knee and do not disrobe the client in performing such manipulation.

8. Any nonresident person licensed, registered, or certified by another state or territory of the United States, the District of Columbia, or foreign territory or recognized certification system determined as acceptable by the board shall be exempt from licensure as defined in this chapter, if such persons are incidentally called into the state to teach a course related to massage or bodywork therapy or to provide massage therapy services as part of an emergency response team working in conjunction with disaster relief officials.

9. Any nonresident person holding a current license, registration, or certification in massage therapy from another state or recognized national certification system determined as acceptable by the board shall be exempt from licensure as defined in this chapter when temporarily present in this state for the purpose of providing massage therapy services at special events such as conventions, sporting events, educational field trips, conferences, and traveling shows or exhibitions.

324.270. MASSAGE OR BODY WORK TITLES PROHIBITED, WHEN — DIVISION OR BOARD MAY CONTRACT FOR LEGAL SERVICES FOR ENFORCEMENT OF CHAPTER. — A person who does not hold a license to practice massage therapy or a license to operate a massage business or is not exempted from obtaining a license pursuant to subsection 7 of section 324.265 shall not use the words "massage", "body work", or any of their synonyms on any sign or in any other form of advertising, unless specifically exempted by the board. [Any advertisement by a massage therapist or a massage business shall contain the license or registration number of such therapist or business.] **The division or board may, in its discretion, contract with legal counsel for legal services, not directly related to pending litigation, which it deems necessary for the administration or enforcement of the provisions of this chapter.**

332.052. DENTAL RECORDS REQUIRED, PRINTED FOR REVIEW — RECORDS MAINTAINED FOR MINIMUM OF SEVEN YEARS — CORRECTIONS TO BE CLEARLY IDENTIFIED — LABORATORY WORK ORDERS MAINTAINED. — **1. Dentists shall maintain an adequate and complete patient record for each patient and may maintain electronic records provided the record-keeping format is capable of being printed for review by the board.**

2. Patient records remaining under the care, custody and control of the licensees shall be maintained by the licensee, or the licensee's designee, for a minimum of seven years from the date of when the last professional service was provided or in the case of a minor, seven years from the age of majority.

3. Any correction, addition, or change in any patient record made more than forty-eight hours after the final entry is entered in the record as an addendum, shall be clearly marked and identified as such, and the date, time, and name of the person making the correction, addition, or change shall be included, as well as the reason for the correction, addition, or change.

4. Dentists and nondentists shall maintain copies of laboratory work orders for seven years.

332.071. PRACTICE OF DENTISTRY DEFINED. — A person or other entity "practices dentistry" within the meaning of this chapter who:

(1) Undertakes to do or perform dental work or dental services or dental operations or oral surgery, by any means or methods, including the use of lasers, gratuitously or for a salary or fee or other reward, paid directly or indirectly to the person or to any other person or entity;

(2) Diagnoses or professes to diagnose, prescribes for or professes to prescribe for, treats or professes to treat, any disease, pain, deformity, deficiency, injury or physical condition of human teeth or adjacent structures or treats or professes to treat any disease or disorder or lesions of the oral regions;

(3) Attempts to or does replace or restore a part or portion of a human tooth;

(4) Attempts to or does extract human teeth or attempts to or does correct malformations of human teeth or jaws;

(5) Attempts to or does adjust an appliance or appliances for use in or used in connection with malposed teeth in the human mouth;

(6) Interprets or professes to interpret or read dental radiographs;

(7) Administers an anesthetic in connection with dental services or dental operations or dental surgery;

(8) Undertakes to or does remove hard and soft deposits from or polishes natural and restored surfaces of teeth;

(9) Uses or permits to be used for the person's benefit or for the benefit of any other person or other entity the following titles or words in connection with the person's name: "Doctor", "Dentist", "Dr.", "D.D.S.", or "D.M.D.", or any other letters, titles, degrees or descriptive matter which directly or indirectly indicate or imply that the person is willing or able to perform any type of dental service for any person or persons, or uses or permits the use of for the person's

benefit or for the benefit of any other person or other entity any card, directory, poster, sign or any other means by which the person indicates or implies or represents that the person is willing or able to perform any type of dental services or operation for any person;

(10) Directly or indirectly owns, leases, operates, maintains, manages or conducts an office or establishment of any kind in which dental services or dental operations of any kind are performed for any purpose; but this section shall not be construed to prevent owners or lessees of real estate from lawfully leasing premises to those who are qualified to practice dentistry within the meaning of this chapter;

(11) Controls, influences, attempts to control or influence, or otherwise interferes with the dentist's independent professional judgment regarding the diagnosis or treatment of a dental disease, disorder, or physical condition except that any opinion rendered by any health care professional licensed under this chapter or chapter 330, 331, 334, 335, 336, 337, or 338, RSMo, regarding the diagnosis, treatment, disorder, or physical condition of any patient shall not be construed to control, influence, attempt to control or influence or otherwise interfere with a dentist's independent professional judgment;

(12) Constructs, supplies, reproduces or repairs any prosthetic denture, bridge, artificial restoration, appliance or other structure to be used or worn as a substitute for natural teeth, except when one, not a registered and licensed dentist, does so pursuant to a written uniform laboratory work order, in the form [to be] prescribed by the board [and copies of which shall be retained by the nondentist for two years], of a dentist registered and currently licensed in Missouri and which the substitute in this subdivision described is constructed upon or by use of casts or models made from an impression furnished by a dentist registered and currently licensed in Missouri;

(13) Attempts to or does place any substitute described in subdivision (12) of this section in a human mouth or attempts to or professes to adjust any substitute or delivers any substitute to any person other than the dentist upon whose order the work in producing the substitute was performed;

(14) Advertises, solicits, or offers to or does sell or deliver any substitute described in subdivision (12) of this section or offers to or does sell the person's services in constructing, reproducing, supplying or repairing the substitute to any person other than a registered and licensed dentist in Missouri;

(15) Undertakes to do or perform any physical evaluation of a patient in the person's office or in a hospital, clinic, or other medical or dental facility prior to or incident to the performance of any dental services, dental operations, or dental surgery;

(16) Reviews examination findings, x-rays, or other patient data to make judgments or decisions about the dental care rendered to a patient in this state.

334.103. AUTOMATIC REVOCATION OR REINSTATEMENT OF LICENSE, GROUNDS. — 1. [The license of a physician] **A license issued under this chapter by the Missouri State Board of Registration for the Healing Arts** shall be automatically revoked at such time as the final trial proceedings are concluded whereby a [physician] **licensee** has been adjudicated and found guilty, or has entered a plea of guilty or nolo contendere, in a felony criminal prosecution under the laws of the state of Missouri, the laws of any other state, or the laws of the United States of America for any offense reasonably related to the qualifications, functions or duties of [a physician] **their profession**, or for any felony offense, an essential element of which is fraud, dishonesty or an act of violence, or for any felony offense involving moral turpitude, whether or not sentence is imposed, or, upon the final and unconditional revocation of the license [of a physician] to practice [the healing arts] **their profession** in another state or territory upon grounds for which revocation is authorized in this state following a review of the record of the proceedings and upon a formal motion of the state board of registration for the healing arts. The license of any such [physician] **licensee** shall be automatically reinstated if the conviction or the revocation is ultimately set aside upon final appeal in any court of competent jurisdiction.

2. Anyone who has been denied a license, permit or certificate to practice in another state shall automatically be denied a license to practice in this state. However, the board of healing arts may set up other qualifications by which such person may ultimately be qualified and licensed to practice in Missouri.

334.104. COLLABORATIVE PRACTICE ARRANGEMENTS, FORM, DELEGATION OF AUTHORITY — RULES, APPROVAL, RESTRICTIONS — DISCIPLINARY ACTIONS — NOTICE OF COLLABORATIVE PRACTICE OR PHYSICIAN ASSISTANT AGREEMENTS TO BOARD, WHEN — NURSES MAY PROVIDE ANESTHESIA SERVICES, WHEN. —

1. A physician may enter into collaborative practice arrangements with registered professional nurses. Collaborative practice arrangements shall be in the form of written agreements, jointly agreed-upon protocols, or standing orders for the delivery of health care services. Collaborative practice arrangements, which shall be in writing, may delegate to a registered professional nurse the authority to administer or dispense drugs and provide treatment as long as the delivery of such health care services is within the scope of practice of the registered professional nurse and is consistent with that nurse's skill, training and competence.

2. Collaborative practice arrangements, which shall be in writing, may delegate to a registered professional nurse the authority to administer, dispense or prescribe drugs and provide treatment if the registered professional nurse is an advanced practice nurse as defined in subdivision (2) of section 335.016, RSMo. Such collaborative practice arrangements shall be in the form of written agreements, jointly agreed-upon protocols or standing orders for the delivery of health care services.

3. The state board of registration for the healing arts pursuant to section 334.125 and the board of nursing pursuant to section 335.036, RSMo, may jointly promulgate rules regulating the use of collaborative practice arrangements. Such rules shall be limited to specifying geographic areas to be covered, the methods of treatment that may be covered by collaborative practice arrangements and the requirements for review of services provided pursuant to collaborative practice arrangements. Any rules relating to dispensing or distribution of medications or devices by prescription or prescription drug orders under this section shall be subject to the approval of the state board of pharmacy. In order to take effect, such rules shall be approved by a majority vote of a quorum of each board. Neither the state board of registration for the healing arts nor the board of nursing may separately promulgate rules relating to collaborative practice arrangements. Such jointly promulgated rules shall be consistent with guidelines for federally funded clinics. The rulemaking authority granted in this subsection shall not extend to collaborative practice arrangements of hospital employees providing inpatient care within hospitals as defined pursuant to chapter 197, RSMo.

4. The state board of registration for the healing arts shall not deny, revoke, suspend or otherwise take disciplinary action against a physician for health care services delegated to a registered professional nurse provided the provisions of this section and the rules promulgated thereunder are satisfied. Upon the written request of a physician subject to a disciplinary action imposed as a result of an agreement between a physician and a registered professional nurse or registered physician assistant, whether written or not, prior to August 28, 1993, all records of such disciplinary licensure action and all records pertaining to the filing, investigation or review of an alleged violation of this chapter incurred as a result of such an agreement shall be removed from the records of the state board of registration for the healing arts and the division of professional registration and shall not be disclosed to any public or private entity seeking such information from the board or the division. The state board of registration for the healing arts shall take action to correct reports of alleged violations and disciplinary actions as described in this section which have been submitted to the National Practitioner Data Bank. In subsequent applications or representations relating to his medical practice, a physician completing forms or documents shall not be required to report any actions of the state board of registration for the healing arts for which the records are subject to removal under this section.

5. Within thirty days of any change and on each renewal, the state board of registration for the healing arts shall require every physician to identify whether the physician is engaged in any collaborative practice agreement or physician assistant agreement and also report to the board the name of each licensed professional with whom the physician has entered into such agreement. The board may make this information available to the public. The board shall track the reported information and may routinely conduct random reviews of such agreements to ensure that agreements are carried out for compliance under this chapter.

6. Notwithstanding anything to the contrary in this section, a registered nurse who has graduated from a school of nurse anesthesia accredited by the Council on Accreditation of Educational Programs of Nurse Anesthesia or its predecessor and has been certified or is eligible for certification as a nurse anesthetist by the Council on Certification of Nurse Anesthetists shall be permitted to provide anesthesia services without a collaborative practice arrangement provided that he or she is under the supervision of an anesthesiologist or other physician, dentist, or podiatrist who is immediately available if needed.

334.706. BOARD OF HEALING ARTS, POWERS AND DUTIES — RULES AND REGULATIONS, PROCEDURE. — 1. The board shall license applicants who meet the qualifications for athletic trainers, who file for licensure, and who pay all fees required for this licensure.

2. The board shall:

(1) Prescribe application forms to be furnished to all persons seeking licensure pursuant to sections 334.700 to 334.725;

(2) [Prepare and conduct examinations for applicants for licensure pursuant to sections 334.700 to 334.725;

(3)] Prescribe the form and design of the licensure to be issued pursuant to sections 334.700 to 334.725;

[(4)] (3) Set the fee for examination, licensure, and renewal thereof;

[(5)] (4) Keep a record of all of its proceedings regarding the Missouri athletic trainers act and of all athletic trainers licensed in this state;

[(6)] (5) Annually prepare a roster of the names and addresses of all athletic trainers licensed in this state, copies of which shall be made available upon request to any person paying the fee therefor;

[(7)] (6) Set the fee for the roster at an amount sufficient to cover the actual cost of publishing and distributing the roster;

[(8)] (7) Appoint members of the Missouri athletic trainer advisory committee;

[(9)] (8) Adopt an official seal.

3. The board may:

(1) Issue subpoenas to compel witnesses to testify or produce evidence in proceedings to deny, suspend, or revoke a license or licensure;

(2) Promulgate rules pursuant to chapter 536, RSMo, in order to carry out the provisions of sections 334.700 to 334.725;

(3) Establish guidelines for athletic trainers in sections 334.700 to 334.725.

4. No rule or portion of a rule promulgated under the authority of sections 334.700 to 334.725 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

334.708. QUALIFICATIONS OF ATHLETIC TRAINERS SEEKING LICENSURE. — 1. Any person seeking licensure pursuant to sections 334.700 to 334.725 **after August 28, 2006**, must be a resident or in the process of establishing residency in this state and must [meet at least one set of the following qualifications:

(1) Has met all of the National Athletic Trainers Association certification qualifications;

(2) Holds a degree in physical therapy with at least a minor in physical education or health which included a basic athletic training course and has spent at least two academic years, military duty included, working under the direct supervision of a certified athletic trainer;

(3) Can show proof acceptable to the board of experience and educational quality equal to that in subdivision (1), and can pass the examination for licensure pursuant to sections 334.700 to 334.725] **have passed the National Athletic Trainers Association Board of Certification, or its successor agency, examination.**

2. The board shall grant, without examination, licensure to any qualified nonresident athletic trainer holding a license or licensure in another state if such other state recognizes licenses or licensure of the state of Missouri in the same manner.

334.715. REFUSAL — SUSPENSION — REVOCATION OF LICENSE, GROUNDS — REINSTATEMENT, PROCEDURE. — 1. The board may refuse to license any applicant or may suspend, revoke, or refuse to renew the license of any licensee for any one or any combination of the causes provided in section 334.100, or if the applicant or licensee:

(1) Violated or conspired to violate any provision of sections 334.700 to 334.725 or any provision of any rule promulgated pursuant to sections 334.700 to 334.725; or

(2) Has been found guilty of unethical conduct as defined in the ethical standards of the National Athletic Trainers Association or the National Athletic Trainers Association Board of Certification, **or its successor agency**, as adopted and published by the committee and the board and filed with the secretary of state.

2. Upon receipt of a written application made in the form and manner prescribed by the board, the board may reinstate any license which has expired, been suspended or been revoked or may issue any license which has been denied; provided, that no application for reinstatement or issuance of license or licensure shall be considered until at least six months have elapsed from the date of denial, expiration, suspension, or revocation when the license to be reinstated or issued was denied issuance or renewal or was suspended or revoked for one of the causes listed in subsection 1 of this section.

334.721. ATHLETIC TRAINERS NOT TO BE CONSTRUED AS PRACTICING MEDICINE — PERSONS EXEMPT FROM REGISTRATION PROVISION. — 1. Nothing in sections 334.700 to 334.725 shall be construed to authorize the practice of medicine by any person not licensed by the state board of registration for the healing arts.

2. The provisions of sections 334.700 to 334.725 shall not apply to the following persons:

(1) Physicians and surgeons licensed by the state board of registration for the healing arts;

(2) Dentists licensed by the Missouri dental board who confine their practice strictly to dentistry;

(3) Optometrists licensed by the state board of optometry who confine their practice strictly to optometry, as defined in section 336.010, RSMo;

(4) Nurses licensed by the state board of nursing who confine their practice strictly to nursing;

(5) Chiropractors licensed by the state board of chiropractic examiners who confine themselves strictly to the practice of chiropractic, as defined in section 331.010, RSMo;

(6) Podiatrists licensed by the state board of chiropody or podiatry who confine their practice strictly to that of a podiatrist, as defined in section 330.010, RSMo;

(7) Professional physical therapists licensed by the state board of registration for the healing arts who confine their practice strictly to professional physical therapy, as defined in section 334.500;

(8) Coaches and physical education instructors in the performance of their duties;

(9) [Apprentice] Athletic [trainers] **training students** who confine themselves strictly to their duties as defined in sections 334.700 to 334.725;

(10) Athletic trainers from other nations, states, or territories performing their duties for their respective teams or organizations if they restrict their duties only to their teams or organizations and only during the course of their teams' or organizations' stay in this state.

337.500. DEFINITIONS. — As used in sections 337.500 to 337.540, unless the context clearly requires otherwise, the following words and phrases mean:

- (1) "Committee **or board**", the committee for professional counselors;
- (2) "Department", the Missouri department of economic development;
- (3) "Director", the director of the division of professional registration in the department of economic development;
- (4) "Division", the division of professional registration;
- (5) "Licensed professional counselor", any person who offers to render professional counseling services to individuals, groups, organizations, institutions, corporations, government agencies or the general public for a fee, monetary or otherwise, implying that the person is trained, experienced, and licensed in counseling, and who holds a current, valid license to practice counseling;
- (6) "Practice of professional counseling", rendering, offering to render, or supervising those who render to individuals, couples, groups, organizations, institutions, corporations, schools, government agencies, or the general public any counseling service involving the application of counseling procedures, and the principles and methods thereof, to assist in achieving more effective intrapersonal or interpersonal, marital, decisional, social, educational, vocational, developmental, or rehabilitative adjustments;
- (7) "Professional counseling", includes, but is not limited to:
 - (a) The use of verbal or nonverbal counseling or both techniques, methods, or procedures based on principles for assessing, understanding, or influencing behavior (such as principles of learning, conditioning, perception, motivation, thinking, emotions, or social systems);
 - (b) Appraisal or assessment, which means selecting, administering, scoring, or interpreting instruments designed to assess a person's or group's aptitudes, intelligence, attitudes, abilities, achievement, interests, and personal characteristics;
 - (c) The use of referral or placement techniques or both which serve to further the goals of counseling;
 - (d) Therapeutic vocational or personal or both rehabilitation in relation to coping with or adapting to physical disability, emotional disability, or intellectual disability or any combination of the three;
 - (e) Designing, conducting, and interpreting research;
 - (f) The use of group methods or techniques to promote the goals of counseling;
 - (g) The use of informational and community resources for career, personal, or social development;
 - (h) Consultation on any item in paragraphs (a) through (g) above; and
 - (i) No provision of sections 337.500 to 337.540, or of chapter 354 or 375, RSMo, shall be construed to mandate benefits or third-party reimbursement for services of professional counselors in the policies or contracts of any insurance company, health services corporation or other third-party payer;
- (8) "Provisional licensed professional counselor", any person who is a graduate of an acceptable educational institution, as defined by division rules, with at least a master's degree with a major in counseling, or its equivalent, and meets all requirements of a licensed professional counselor, other than the supervised counseling experience prescribed by subdivision (1) of section 337.510, and who is supervised by a person who is qualified for the practice of professional counseling.

337.510. REQUIREMENTS FOR LICENSURE — RECIPROCITY — PROVISIONAL PROFESSIONAL COUNSELOR LICENSE ISSUED, WHEN, REQUIREMENTS — RENEWAL LICENSE

FEE. — 1. Each applicant for licensure as a professional counselor shall furnish evidence to the committee that[:

(1) The applicant has met any one of the three following education-experience requirements:

(a) The applicant has received a doctoral degree with a major in counseling, or its equivalent, from an acceptable educational institution, as defined by division rules, and has completed at least one year of acceptable supervised counseling experience subsequent to receipt of the doctoral degree; or

(b) The applicant has received a specialist's degree with a major in counseling, or its equivalent, from an acceptable educational institution, as defined by division rules, and has completed at least one year of acceptable supervised counseling experience subsequent to receipt of the specialist's degree; or

(c) The applicant has received at least a master's degree with a major in counseling, or its equivalent, from an acceptable educational institution as defined by division rules, and has completed two years of acceptable supervised counseling experience subsequent to receipt of the master's degree. An applicant may substitute thirty semester hours of post-master's graduate study, or their equivalent, for one of the two required years of acceptable supervised counseling experience, if such hours are clearly related to the field of professional counseling and are earned from an acceptable educational institution;

(2)] **the applicant is at least eighteen years of age, is of good moral character, is a United States citizen or is legally present in the United States; and**

(1) **The applicant has completed a course of study as defined by the board rule leading to a master's, specialist's, or doctoral degree with a major in counseling; and**

(2) **The applicant has completed acceptable supervised counseling as defined by board rule. If the applicant has a master's degree with a major in counseling as defined by board rule, the applicant shall complete at least two years of acceptable supervised counseling experience subsequent to the receipt of the master's degree. The composition and number of hours comprising the acceptable supervised counseling experience shall be defined by board rule. An applicant may substitute thirty semester hours of post master's graduate study for one of the two required years of acceptable supervised counseling experience if such hours are clearly related to counseling.**

(3) After August 28, 2007, each applicant shall have completed a minimum of three hours of graduate level coursework in diagnostic systems **either** in the curriculum leading to [his or her] a degree **or as post master's graduate level course work;**

[(3)] (4) Upon examination, the applicant is possessed of requisite knowledge of the profession, including techniques and applications, research and its interpretation, and professional affairs and ethics.

2. [A licensed professional counselor who has had no violations and no suspensions and no revocation of a license to practice professional counseling in any jurisdiction may receive a license in Missouri provided said licensed professional counselor passes a written examination on Missouri laws and regulations governing the practice of professional counseling as defined in section 337.500, and meets one of the following criteria:

(1) Is a member in good standing and holds a certification from the National Board for Certified Counselors;

(2) Is currently licensed or certified as a licensed professional counselor in another state, territory of the United States, or the District of Columbia; and

(a) Meets one of the educational standards set forth in paragraphs (a) and (b) of subdivision (1) of subsection 1 of this section;

(b) Has been licensed for the preceding five years; and

(c) Has had no disciplinary action taken against the license for the preceding five years;

or

(3) Is currently licensed or certified as a professional counselor in another state, territory of the United States, or the District of Columbia that extends like privileges for reciprocal licensing or certification to persons licensed by this state with similar qualifications.

3.] Any person who previously held a valid unrevoked, unsuspended license as a professional counselor in this state and who held a valid license **as a professional counselor** in another state at the time of application to the committee shall be granted a license to engage in professional counseling in this state upon application to the committee accompanied by the appropriate fee as established by the committee pursuant to section 337.507.

3. Any person holding a current license, certificate of registration, or permit from another state or territory of the United States to practice as a professional counselor may be granted a license without examination to engage in the practice of professional counseling in this state upon the application to the board, payment of the required fee as established by the board, and satisfying one of the following requirements;

(1) **Approval by the American Association of State Counseling Boards (AASCB) or its successor organization according to the eligibility criteria established by AASCB. The successor organization shall be defined by board rule; or**

(2) **In good standing and currently certified by the National Board for Certified Counselors or its successor organization and has completed acceptable supervised counseling experience as defined by board rule. The successor organization shall be defined by board rule; or**

(3) **Determination by the board that the requirements of the other state or territory are substantially the same as Missouri and certified by the applicant's current licensing entity that the applicant has a current license. The applicant shall also consent to examination of any disciplinary history.**

4. The committee shall issue a license to each person who files an application and fee [as required by the provisions of sections 337.500 to 337.540] and who furnishes evidence satisfactory to the committee that the applicant has complied with the provisions [of subdivisions (1) and (2) of subsection 1 of this section or with the provisions of subsection 2 or 3] of this [section] **act and has taken and passed a written, open-book examination on Missouri laws and regulations governing the practice of professional counseling as defined in section 337.500.** The division shall issue a provisional professional counselor license to any applicant who meets all requirements [of subdivisions (1) and (2) of subsection 1] of this section, but who has not completed the required [one or two years of] acceptable supervised counseling experience [required by paragraphs (a) to (c) of subdivision (1) of subsection 1 of this section,] and such applicant may reapply for licensure as a professional counselor upon completion of such acceptable supervised counseling experience.

5. All persons licensed to practice professional counseling in this state shall pay on or before the license renewal date a renewal license fee and shall furnish to the committee satisfactory evidence of the completion of the requisite number of hours of continuing education **as required by rule**, which shall be no more than forty hours biennially. The continuing education requirements may be waived by the committee upon presentation to the committee of satisfactory evidence of the illness of the licensee or for other good cause.

337.615. EDUCATION, EXPERIENCE REQUIREMENTS — RECIPROCITY — LICENSES ISSUED, WHEN. — 1. Each applicant for licensure as a clinical social worker shall furnish evidence to the committee that:

(1) The applicant has a master's degree from a college or university program of social work accredited by the council of social work education or a doctorate degree from a school of social work acceptable to the committee;

(2) The applicant has completed three thousand hours of supervised clinical experience with a licensed clinical social worker acceptable to the committee, as defined by rule, in no less than twenty-four months and no more than forty-eight consecutive calendar months;

(3) The applicant has achieved a passing score, as defined by the committee, on an examination approved by the committee. The eligibility requirements for such examination shall be promulgated by rule of the committee;

(4) The applicant is at least eighteen years of age, is of good moral character, is a United States citizen or has status as a legal resident alien, and has not been convicted of a felony during the ten years immediately prior to application for licensure.

2. [A licensed clinical social worker who has had no violations and no suspensions and no revocation of a license to practice clinical social work in any jurisdiction may receive a license in Missouri provided said clinical social worker passes a written examination and] **Any person holding a current license, certificate of registration, or permit from another state or territory of the United States or the District of Columbia to practice clinical social work who has had no disciplinary action taken against the license, certificate of registration, or permit for the preceding five years may be granted a license to practice clinical social work in this state if the person** meets one of the following criteria:

(1) [Is currently licensed or certified as a licensed clinical social worker in another state, territory of the United States, or the District of Columbia; and

(a) Who] Has received a masters or doctoral degree from a college or university program of social work accredited by the council of social work education[;

(b)] **and** has been licensed **to practice clinical social work** for the preceding five years; [and

(c) Has had no disciplinary action taken against the license for the preceding five years;] or

(2) Is currently licensed or certified as a clinical social worker in another state, territory of the United States, or the District of Columbia [that extends like privileges for reciprocal licensing or certification to persons licensed by this state with similar qualifications] **having substantially the same requirements as this state for clinical social workers.**

3. The committee shall issue a license to each person who files an application and fee as required by the provisions of sections 337.600 to 337.639 and who furnishes evidence satisfactory to the committee that the applicant has complied with the provisions of subdivisions (1) to (4) of subsection 1 of this section or with the provisions of subsection 2 of this section. The committee shall issue a provisional clinical social worker license to any applicant who meets all requirements of subdivisions (1), (3) and (4) of subsection 1 of this section, but who has not completed the twenty-four months of supervised clinical experience required by subdivision (2) of subsection 1 of this section, and such applicant may reapply for licensure as a clinical social worker upon completion of the twenty-four months of supervised clinical experience.

340.222. SUPERVISOR RESPONSIBLE AND LIABLE, WHEN. — A supervisor, as defined in subdivision [(17)] **(19)** of section 340.200, is individually and separately responsible and liable for the performance of the acts delegated to and the omissions of the veterinary technician, veterinary medical candidate, temporary licensee, veterinary medical preceptee, unregistered assistant or any other individual working under his or her supervision. Nothing in this section shall be construed to relieve veterinary technicians, veterinary medical candidates, provisional licensees, temporary licensees, veterinary medical preceptees or unregistered assistants of any responsibility or liability for any of their own acts or omissions.

340.234. EXAMINATION — LICENSURE WITHOUT EXAMINATION. — 1. If the board determines that the applicant possesses the proper qualifications as set forth in subsection 3 of section 340.228, it shall admit the applicant to the next scheduled examination.

2. Applicants shall submit an application and the registration and examination fees [at least sixty days prior to taking the examination] **as required by rule of the board.**

3. The board shall establish the requirements for a passing score on the examination. In order for a previous examination score to be transferred for a current licensing period, the score

must have been received within five years prior to the application. If that passing score was not received within three attempts, the board may require the applicant to appear before the board or submit evidence that the applicant has completed at least thirty hours of board-approved continuing education. The board shall have sole discretion on whether to accept for transfer a score from another state's licensing authority.

4. If all the other requirements of sections 340.200 to 340.330 have been met, the board shall issue licenses to the persons who successfully completed the examination. The executive director shall record the new licenses.

5. If the board determines that the applicant is eligible for licensure without examination through the reciprocity provision of section 340.238, the board may grant the applicant a license without examination.

621.100. COMPLAINTS — NOTICE — AGENCY MAY RETAIN COUNSEL — AFFIDAVIT REGARDING LICENSEE'S STATUS, PROCEDURE. — 1. Upon receipt of a written complaint from an agency named in section 621.045 in a case relating to a holder of a license granted by such agency, or upon receipt of such complaint from the attorney general, the administrative hearing commission shall cause a copy of said complaint to be served upon such licensee in person or by certified mail, together with a notice of the place of and the date upon which the hearing on said complaint will be held. **If service cannot be accomplished in person or by certified mail, notice by publication as described in subsection 3 of section 506.160, RSMo, shall be allowed; any commissioner is authorized to act as a court or judge would in that section, and any employee of the commission is authorized to act as a clerk would in that section.** In any case initiated upon complaint of the attorney general, the agency which issued the license shall be given notice of such complaint and the date upon which the hearing will be held by delivery of a copy of such complaint and notice to the office of such agency or by certified mail. Such agency may intervene and may retain the services of legal counsel to represent it in such case.

2. In any case initiated under this section, the custodian of the records of an agency may prepare a sworn affidavit stating truthfully pertinent information regarding the license status of the licensee charged in the complaint, including only: the name of the licensee; his license number; its designated date of expiration; the date of his original Missouri licensure; the particular profession, practice or privilege licensed; and the status of his license as current and active or otherwise. This affidavit shall be received as substantial and competent evidence of the facts stated therein notwithstanding any objection as to the form, manner of presentment or admissibility of this evidence, and shall create a rebuttable presumption of the veracity of the statements therein; provided, however, that the procedures specified in section 536.070, RSMo, shall apply to the introduction of this affidavit in any case where the status of this license constitutes a material issue of fact in the proof of the cause charged in the complaint.

621.110. COMMISSION'S FINDINGS AND RECOMMENDATIONS — HEARING BY AGENCY ON DISCIPLINARY ACTION. — Upon a finding in any cause charged by the complaint for which the license may be suspended or revoked as provided in the statutes and regulations relating to the profession or vocation of the licensee, the commission shall deliver or transmit by [certified] mail to the agency which issued the license the record and a transcript of the proceedings before the commission together with the commission's findings of fact and conclusions of law. The commission may make recommendations as to appropriate disciplinary action but any such recommendations shall not be binding upon the agency. A copy of the findings of fact, conclusions of law and the commission's recommendations, if any, shall be [served upon] **delivered or transmitted by mail to the licensee [in person or by certified mail] if the licensee's whereabouts are known, and to any attorney who represented the licensee.** Within thirty days after receipt of the record of the proceedings before the commission and the findings of fact, conclusions of law, and recommendations, if any, of the commission, the agency shall set the

matter for hearing upon the issue of appropriate disciplinary action and shall notify the licensee of the time and place of the hearing, provided that such hearing may be waived by consent of the agency and licensee where the commission has made recommendations as to appropriate disciplinary action. In case of such waiver by the agency and licensee, the recommendations of the commission shall become the order of the agency. The licensee may appear at said hearing and be represented by counsel. The agency may receive evidence relevant to said issue from the licensee or any other source. After such hearing the agency may order any disciplinary measure it deems appropriate and which is authorized by law. In any case where the commission fails to find any cause charged by the complaint for which the license may be suspended or revoked, the commission shall dismiss the complaint, and so notify all parties.

Approved June 29, 2006

SB 765 [HCS SCS SB 765]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Enacts provisions relating to emergency medical treatment

AN ACT to repeal section 431.064, RSMo, and to enact in lieu thereof one new section relating to emergency medical treatment, with an emergency clause.

SECTION

- A. Enacting clause.
- 431.064. Experimental treatment, tests, and drugs, consent to administer by third party — life-threatening emergencies, consent by whom.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 431.064, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 431.064, to read as follows:

431.064. EXPERIMENTAL TREATMENT, TESTS, AND DRUGS, CONSENT TO ADMINISTER BY THIRD PARTY — LIFE-THREATENING EMERGENCIES, CONSENT BY WHOM. — 1. When an adult person, because of a medical condition, is treated by a teaching hospital for a medical school accredited by the American Osteopathic Association or the American Medical Association and such person is incapable of giving informed consent for an experimental treatment, test or drug, then such treatment, test or drug may proceed upon obtaining consent of a legal guardian, attorney-in-fact, or a family member in the following order of priority:

(1) Spouse unless the patient has no spouse, or is separated, or the spouse is physically or mentally incapable of giving consent, or the spouse's whereabouts is unknown or the spouse is overseas;

(2) Adult child;

(3) Parent;

(4) Brother or sister;

(5) Relative by blood or marriage.

2. Nothing in this section shall authorize such legal guardian, attorney-in-fact, or family member to consent to treatment in contravention to such incapacitated person's expressed permission regarding such treatment.

3. In a life-threatening emergency, consent of such an incapacitated person to any research program or experimental procedure shall not be required when the institutional review board responsible for the review, approval, and continuing review of the research activity has approved both the research activity and a waiver of informed consent and has both found and documented that the requirements for an exception from informed consent requirements for emergency research, as provided under Part 50 of Title 21 or Part 46 of Title 45 of the Code of Federal Regulations, as amended, have been satisfied.

SECTION B. EMERGENCY CLAUSE. — Because of the need to no longer delay the use of experimental medical treatments for life-threatening emergencies, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is

hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved June 12, 2006

SB 769 [HCS SCS SB 769]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Permits school districts meeting certain criteria to make a one-time additional transfer from the incidental fund to the capital projects fund

AN ACT to repeal section 171.033, RSMo, and to enact in lieu thereof three new sections relating to authorization of additional fund transfers and waivers of certain requirements for school districts meeting certain qualifications, with a termination date for a certain section and an emergency clause.

SECTION

- A. Enacting clause.
- 165.018. One-time transfer from incidental fund to capital projects fund permitted, amount, qualifications — termination date.
- 171.033. Make-up of days lost or canceled — exemption, when — waiver for schools in session twelve months of year, granted when.
 - 1. Provision of food services by school districts eligible to reduce make up days.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 171.033, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 165.018, 171.033, and 1, to read as follows:

165.018. ONE-TIME TRANSFER FROM INCIDENTAL FUND TO CAPITAL PROJECTS FUND PERMITTED, AMOUNT, QUALIFICATIONS — TERMINATION DATE. — 1. Any school district shall be permitted to make a one-time additional transfer from the incidental fund to the capital projects fund in an amount not to exceed forty percent of that district's June 30, 2006, incidental fund if such school district meets one of the following qualifications:

(1) Has an average daily attendance between nine hundred forty and one thousand forty during the 2004-2005 school year, located at least partially in a county of the third classification with a township form of government and with more than twenty-nine thousand seven hundred but fewer than twenty-nine thousand eight hundred inhabitants and which entirely encompasses a city of the fourth classification with more than one thousand one hundred but fewer than one thousand two hundred inhabitants; or

(2) Has an average daily attendance between six hundred and six hundred thirty during the 2004-2005 school year, located at least partially in any county of the second classification with more than fifty-five thousand six hundred but fewer than fifty-five thousand seven hundred inhabitants; or

(3) Has an average daily attendance between four hundred sixty and four hundred ninety during the 2004-2005 school year, located at least partially in any county of the third classification without a township form of government and with more than twenty-

three thousand two hundred fifty but fewer than twenty-three thousand three hundred fifty inhabitants; or

(4) Has an average daily attendance between one thousand four hundred and one thousand five hundred during the 2004-2005 school year and is located entirely within a county of the third classification without a township form of government and with more than twenty thousand but fewer than twenty thousand one hundred inhabitants.

2. The provisions of this section shall terminate on July 1, 2007.

171.033. MAKE-UP OF DAYS LOST OR CANCELED — EXEMPTION, WHEN — WAIVER FOR SCHOOLS IN SESSION TWELVE MONTHS OF YEAR, GRANTED WHEN. — 1. Except as provided in subsections 3 and 4 of this section, no school district shall be exempt from any requirement to make up any days of school lost or canceled due to inclement weather, unless that school district schedules at least two-thirds as many make-up days for a school year as were lost in the previous school year, which days shall be in addition to the school calendar days required for a school term by section 171.031.

2. If, after using the make-up days referred to in subsection 1, a district does not meet the requirement for a term of one hundred seventy-four days of actual pupil attendance, it shall be required to make up no more than eight additional days of school lost or canceled due to inclement weather and half the number of days lost or canceled in excess of eight days.

3. In the [2002-03] **2005-06** school year, a school district may be exempt from the requirement to make up days of school lost or canceled due to inclement weather occurring after [November 20, 2002] **April 1, 2006**, in the school district, but such reduction of the minimum number of school days shall not exceed five days when a district has missed more than seven days overall, such reduction to be taken as follows: one day for eight days missed, two days for nine days missed, three days for ten days missed, four days for eleven days missed, and five days for twelve or more days missed. The requirement for scheduling two-thirds of the missed days into the next year's calendar pursuant to subsection 1 of this section shall be waived for the [2003-04] **2006-07** school year.

4. The commissioner of education may provide, for any school district in which schools are in session for twelve months of each calendar year that cannot meet the minimum school calendar requirement of at least one hundred seventy-four days and one thousand forty-four hours of actual pupil attendance, upon request, a waiver to be excused from such requirement. This waiver shall be requested from the commissioner of education and may be granted if the school was closed due to circumstances beyond school district control, including inclement weather, flooding or fire.

SECTION 1. PROVISION OF FOOD SERVICES BY SCHOOL DISTRICTS ELIGIBLE TO REDUCE MAKE UP DAYS. — Any school district that is eligible to reduce its requirement to make up days pursuant to subsection 3 of section 171.033, RSMo, may provide food service on a summer school food service basis if it resumes school with double sessions.

SECTION B. EMERGENCY CLAUSE. — Because of the need to allow certain school districts to efficiently utilize their funds, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved May 31, 2006

SB 778 [SB 778]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires proof of payment of personal property taxes on certain vessels, raises vessel fees and creates the "Missouri State Water Patrol Fund"

AN ACT to repeal section 306.030, RSMo, and to enact in lieu thereof two new sections relating to the state water patrol.

SECTION

A. Enacting clause.

- 306.030. Certificate of number, application, procedure, contents, fee — numbers, how attached — numbers from federal or other state governments, reciprocity — renewal of certificate, when, how — personal property tax statement and proof of payment required — deposit and use of fees.
- 306.185. Missouri state water patrol fund created, use of proceeds — equitable pay plan established by commissioner of water patrol — deposit of funds in certain fiscal years.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 306.030, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 306.030 and 306.185, to read as follows:

306.030. CERTIFICATE OF NUMBER, APPLICATION, PROCEDURE, CONTENTS, FEE — NUMBERS, HOW ATTACHED — NUMBERS FROM FEDERAL OR OTHER STATE GOVERNMENTS, RECIPROcity — RENEWAL OF CERTIFICATE, WHEN, HOW — PERSONAL PROPERTY TAX STATEMENT AND PROOF OF PAYMENT REQUIRED — DEPOSIT AND USE OF FEES. — 1. The owner of each vessel requiring numbering by this state shall file an application for number with the department of revenue on forms provided by it. The application shall contain a full description of the vessel, factory number or serial number, together with a statement of the applicant's source of title and of any liens or encumbrances on the vessel. For good cause shown the director of revenue may extend the period of time for making such application. The director of revenue shall use reasonable diligence in ascertaining whether the facts stated in such application are true, and, if satisfied that the applicant is the lawful owner of such vessel, or otherwise entitled to have the same registered in his **or her** name, shall thereupon issue an appropriate certificate of title over [his] **the director's** signature and sealed with the seal of [his] **the director's** office, procured and used for such purpose, and a certificate of number stating the number awarded to the vessel. The application shall include a provision stating that the applicant will consent to any inspection necessary to determine compliance with the provisions of this chapter and shall be signed by the owner of the vessel and shall be accompanied by the fee specified in subsection 8 of this section. The owner shall paint on or attach to each side of the bow of the vessel the identification number in a manner as may be prescribed by rules and regulations of the division of water safety in order that it may be clearly visible. The number shall be maintained in legible condition. The certificate of number shall be pocket size and shall be available at all times for inspection on the vessel for which issued, whenever the vessel is in operation. The operator of a vessel in which such certificate of number is not available for inspection by the state water patrol or, if the operator cannot be determined, the person who is the registered owner of the vessel shall be subject to the penalties provided in section 306.210. Vessels owned by the state or a political subdivision shall be registered but no fee shall be assessed for such registration.

2. Each new vessel sold in this state after January 1, 1970, shall have die stamped on or within three feet of the transom or stern a factory number or serial number.

3. The owner of any vessel already covered by a number in full force and effect which has been awarded to it pursuant to then operative federal law or a federally approved numbering system of another state shall record the number prior to operating the vessel on the waters of this

state in excess of the sixty-day reciprocity period provided for in section 306.080. The recordation and payment of registration fee shall be in the manner and pursuant to the procedure required for the award of a number under subsection 1 of this section. No additional or substitute number shall be issued unless the number is a duplicate of an existing Missouri number.

4. In the event that an agency of the United States government shall have in force an overall system of identification numbering for vessels within the United States, the numbering system employed pursuant to this chapter by the department of revenue shall be in conformity therewith.

5. All records of the department of revenue made and kept pursuant to this section shall be public records.

6. Every certificate of number awarded pursuant to this chapter shall continue in force and effect for a period of three years unless sooner terminated or discontinued in accordance with the provisions of this chapter. Certificates of number may be renewed by the owner in the same manner provided for in the initial securing of the same or in accordance with the provisions of sections 306.010 to 306.030.

7. The department of revenue shall fix the days and months of the year on which certificates of number due to expire during the calendar year shall lapse and no longer be of any force and effect unless renewed pursuant to this chapter and may stagger such dates in order to distribute the workload.

8. **When applying for or renewing a vessel's certificate of number, the owner shall submit a paid personal property tax receipt for the tax year which immediately precedes the year in which the application is made or the year in which the renewal is due and which reflects that the vessel being renewed is listed as personal property and that all personal property taxes, including delinquent taxes from prior years, have been paid, or a statement certified by the county or township in which the owner's property was assessed showing that the state and county tangible personal property taxes for such previous tax year and all delinquent taxes due have been paid by the applicant or that no such taxes were due.**

9. **When applying for or renewing a certificate of registration for a vessel documented with the United States Coast Guard under section 306.016, owners of vessels shall submit a paid personal property tax receipt for the tax year which immediately precedes the year in which the application is made or the renewal is due and which reflects that the vessel is listed as personal property and that all personal property taxes, including delinquent taxes from prior years, have been paid, or a statement certified by the county or township in which the owner's property was assessed showing that the state and county tangible personal property taxes for such previous tax year and all delinquent taxes due have been paid by the applicant or that no such taxes were due.**

10. The fee to accompany each application for a certificate of number is:

For vessels under 16 feet in length.	[\$10.00]	\$25.00
For vessels at least 16 feet in length but less than 26 feet in length.	[20.00]	\$55.00
For vessels at least 26 feet in length but less than 40 feet in length.	[30.00]	\$100.00
For vessels at least 40 feet and over.	[40.00]	\$150.00

[9.] 11. The certificate of title and certificate of number issued by the director of revenue shall be manufactured in a manner to prohibit as nearly as possible the ability to alter, counterfeit, duplicate, or forge such certificate without ready detection.

12. **The first two million dollars collected annually under the provisions of this section shall be deposited into the state general revenue fund. All fees collected under the provisions of this section in excess of two million dollars annually shall be deposited in the Missouri state water patrol fund and shall be used exclusively for the Missouri state water patrol.**

306.185. MISSOURI STATE WATER PATROL FUND CREATED, USE OF PROCEEDS — EQUITABLE PAY PLAN ESTABLISHED BY COMMISSIONER OF WATER PATROL — DEPOSIT OF FUNDS IN CERTAIN FISCAL YEARS. — 1. There is hereby created in the state treasury the "Missouri State Water Patrol Fund", which shall consist of money collected under section 306.030. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the expenses of the Missouri state water patrol, including but not limited to personal expense, training expense, and equipment expense.

2. Notwithstanding the provisions of section 33.080, RSMo, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

3. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

4. Within available appropriations in this section, the commissioner of the water patrol shall establish with the advice of the director of personnel, an equitable pay plan for the members of the water patrol and radio personnel taking into consideration ranks and length of service.

5. If in the immediate previous fiscal year, the state's net general revenue did not increase by two percent or more, the state treasurer shall deposit moneys, except for gifts, donations, or bequests, received under this section beginning January first of the current fiscal year into the state general revenue fund. Otherwise, the state treasurer shall deposit such moneys in accordance with the provisions of this section.

Approved July 12, 2006

SB 785 [SB 785]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows any jailer to serve an arrest warrant on a person who is already an inmate in the custody of the jailer

AN ACT to amend chapter 221, RSMo, by adding thereto one new section relating to duties of jailers.

SECTION

A. Enacting clause.

221.515. Jailers authorized to serve arrest warrants on inmates.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 221, RSMo, is amended by adding thereto one new section, to be known as section 221.515, to read as follows:

221.515. JAILERS AUTHORIZED TO SERVE ARREST WARRANTS ON INMATES. — Any person designated a jailer under the provisions of this chapter shall have the power to

serve an arrest warrant on a person who is already an inmate in the custody of the facility at which such jailer is employed.

Approved June 9, 2006

SB 802 [SCS SB 802]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Defines the terms "owner", "registered voter" and "voter" when used in provisions about certain sewer districts

AN ACT to amend chapter 249, RSMo, by adding thereto one new section relating to sewer districts in certain counties, with an emergency clause.

SECTION

- A. Enacting clause.
- 249.761. Definitions.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 249, RSMo, is amended by adding thereto one new section, to be known as section 249.761, to read as follows:

249.761. DEFINITIONS. — For the purposes of sections 249.761 to 249.810, the following words and terms mean:

(1) "Owner", for real property, the individual or individuals or entity or entities who own a fee interest in real property that is located within the sewer district and subject to charges for use and services of the sewer system or their legally authorized representative; for business organizations and other entities, the owner shall be deemed to be the individual who is legally authorized to represent the entity with regard to the sewer district;

(2) "Registered voters", persons who are qualified and registered to vote under chapter 115, RSMo, under the records of the election authority having jurisdiction over the area in which the boundaries of the sewer district are located, as of the thirtieth day prior to the date of the applicable election;

(3) "Voters", registered voters who reside within a sewer district, or if fewer than five registered voters reside within a sewer district, the registered voters and owners of real property located within the sewer district per the tax records for real property of the county clerk, as of the thirtieth day prior to the date of the applicable election; provided, however, "voters" voting on the issuance of general obligation bonds means registered voters who reside within the sewer district and "voters" in an area proposed to be annexed under section 249.807 means registered voters in the area proposed to be annexed.

SECTION B. EMERGENCY CLAUSE. — Because of the need to enable sewer districts with fewer than five registered voters to elect a board of five supervisors and to permit such districts to exercise certain powers conditioned upon approval of voters, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is

hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved May 19, 2006

SB 809 [HCS SB 809]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Provides municipalities the option of adopting the zoning regulations of the county in lieu of their own

AN ACT to repeal section 89.020, RSMo, and to enact in lieu thereof one new section relating to zoning ordinances.

SECTION

- A. Enacting clause.
- 89.020. Powers of municipal legislative body — group homes, classification, standards, restrictions — enforcement of zoning beyond lake shorelines, when, how — foster homes, classifications of — certain municipalities may adopt county zoning regulations.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 89.020, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 89.020, to read as follows:

89.020. POWERS OF MUNICIPAL LEGISLATIVE BODY — GROUP HOMES, CLASSIFICATION, STANDARDS, RESTRICTIONS — ENFORCEMENT OF ZONING BEYOND LAKE SHORELINES, WHEN, HOW — FOSTER HOMES, CLASSIFICATIONS OF — CERTAIN MUNICIPALITIES MAY ADOPT COUNTY ZONING REGULATIONS. — 1. For the purpose of promoting health, safety, morals or the general welfare of the community, the legislative body of all cities, towns, and villages is hereby empowered to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, the preservation of features of historical significance, and the location and use of buildings, structures and land for trade, industry, residence or other purposes.

2. For the purpose of any zoning law, ordinance or code, the classification single family dwelling or single family residence shall include any home in which eight or fewer unrelated mentally or physically handicapped persons reside, and may include two additional persons acting as houseparents or guardians who need not be related to each other or to any of the mentally or physically handicapped persons residing in the home. In the case of any such residential home for mentally or physically handicapped persons, the local zoning authority may require that the exterior appearance of the home and property be in reasonable conformance with the general neighborhood standards. Further, the local zoning authority may establish reasonable standards regarding the density of such individual homes in any specific single family dwelling neighborhood.

3. No person or entity shall contract or enter into a contract which would restrict group homes or their location as defined in this section from and after September 28, 1985.

4. Any county, city, town or village which has a population of at least five hundred and whose boundaries are partially contiguous with a portion of a lake with a shoreline of at least one hundred fifty miles, shall have the authority to enforce its zoning laws, ordinances or codes for one hundred yards beyond the shoreline which is adjacent to its boundaries. In the event that a lake is not large enough to allow any county, city, town or village to enforce its zoning laws, ordinances or codes for one hundred yards beyond the shoreline without encroaching on the enforcement powers granted another county, city, town or village under this subsection, the counties, cities, towns and villages whose boundaries are partially contiguous to such lake shall enforce their zoning laws, ordinances or orders under this subsection pursuant to an agreement entered into by such counties, cities, towns and villages.

5. Should a single family dwelling or single family residence as defined in subsection 2 of this section cease to operate for the purpose as set forth in subsection 2 of this section, any other use of such home, other than allowed by local zoning restrictions, must be approved by the local zoning authority.

6. For purposes of any zoning law, ordinance or code the classification of single family dwelling or single family residence shall include any private residence licensed by the division of family services or department of mental health to provide foster care to one or more but less than seven children who are unrelated to either foster parent by blood, marriage or adoption. Nothing in this subsection shall be construed to relieve the division of family services, the department of mental health or any other person, firm or corporation occupying or utilizing any single family dwelling or single family residence for the purposes specified in this subsection from compliance with any ordinance or regulation relating to occupancy permits except as to number and relationship of occupants or from compliance with any building or safety code applicable to actual use of such single family dwelling or single family residence.

7. Any city, town, or village that is granted zoning powers under this section and is located within a county that has adopted zoning regulations under chapter 64, RSMo, may enact an ordinance to adopt by reference the zoning regulations of such county in lieu of adopting its own zoning regulations.

Approved June 9, 2006

SB 819 [HCS SB 819]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies licensure requirements for professional engineers and land surveyors

AN ACT to repeal section 327.391, RSMo, and to enact in lieu thereof two new sections relating to professional engineer and land surveyor licenses.

SECTION

A. Enacting clause.

327.391. License, examination requirements.

327.392. Professional engineering license issued, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 327.391, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 327.391 and 327.392, to read as follows:

327.391. LICENSE, EXAMINATION REQUIREMENTS. — The board shall upon application issue a license to any [engineer or professional land surveyor who is at least fifty years of age,] **individual** who has at least twenty years of satisfactory experience, and who passes [a written examination or holds a degree at the bachelor's level or higher in engineering or science and passes an oral examination,] **the Fundamentals of Land Surveying examination, the Professional Land Surveying examination, and the Missouri State Specific examination** provided that any such application is accompanied by the required fee.

327.392. PROFESSIONAL ENGINEERING LICENSE ISSUED, WHEN. — **1.** The board shall upon application issue a professional engineering license to any individual who holds a degree at the bachelor's level or higher in engineering and who has at least twenty years of satisfactory engineering experience, and who passes part two of the written examination defined in section 327.241, provided that any such application is accompanied by the required fee.

2. The board shall upon application issue a professional engineering license to any individual who holds a degree from an Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology (ABET, INC.) or its equivalent and a doctorate in engineering from an institution that offers Engineering Accreditation Commission programs, and who passes part two of the written examination defined in section 327.241, provided that any such application is accompanied by the required fee. The doctorate degree must be approved by the board for the candidate to qualify.

Approved June 29, 2006

SB 822 [SB 822]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Extends FRA, Pharmacy Tax, Nursing Facility reimbursement allowance, and Medicaid managed care reimbursement allowance sunsets

AN ACT to repeal sections 198.439, 208.437, 208.480, and 338.550, RSMo, and to enact in lieu thereof four new sections relating to the health care provider tax, with an emergency clause.

SECTION

- A. Enacting clause.
- 198.439. Expiration date.
- 208.437. Reimbursement allowance period — notification of balance due, when — delinquent payments, procedure, basis for denial of licensure — expiration date.
- 208.480. Federal reimbursement allowance expiration date.
- 338.550. Expiration date of tax, when.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 198.439, 208.437, 208.480, and 338.550, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 198.439, 208.437, 208.480, and 338.550, to read as follows:

198.439. EXPIRATION DATE. — Sections 198.401 to 198.436 shall expire on September 30, [2006] **2007**.

208.437. REIMBURSEMENT ALLOWANCE PERIOD — NOTIFICATION OF BALANCE DUE, WHEN — DELINQUENT PAYMENTS, PROCEDURE, BASIS FOR DENIAL OF LICENSURE — EXPIRATION DATE. — 1. A Medicaid managed care organization reimbursement allowance period as provided in sections 208.431 to 208.437 shall be from the first day of July to the thirtieth day of June. The department shall notify each Medicaid managed care organization with a balance due on the thirtieth day of June of each year the amount of such balance due. If any managed care organization fails to pay its managed care organization reimbursement allowance within thirty days of such notice, the reimbursement allowance shall be delinquent. The reimbursement allowance may remain unpaid during an appeal.

2. Except as otherwise provided in this section, if any reimbursement allowance imposed under the provisions of sections 208.431 to 208.437 is unpaid and delinquent, the department of social services may compel the payment of such reimbursement allowance in the circuit court having jurisdiction in the county where the main offices of the Medicaid managed care organization is located. In addition, the director of the department of social services or the director's designee may cancel or refuse to issue, extend or reinstate a Medicaid contract agreement to any Medicaid managed care organization which fails to pay such delinquent reimbursement allowance required by sections 208.431 to 208.437 unless under appeal.

3. Except as otherwise provided in this section, failure to pay a delinquent reimbursement allowance imposed under sections 208.431 to 208.437 shall be grounds for denial, suspension or revocation of a license granted by the department of insurance. The director of the department of insurance may deny, suspend or revoke the license of a Medicaid managed care organization with a contract under 42 U.S.C. Section 1396b(m) which fails to pay a managed care organization's delinquent reimbursement allowance unless under appeal.

4. Nothing in sections 208.431 to 208.437 shall be deemed to affect or in any way limit the tax-exempt or nonprofit status of any Medicaid managed care organization with a contract under 42 U.S.C. Section 1396b(m) granted by state law.

5. Sections 208.431 to 208.437 shall expire on June 30, [2006] **2007**.

208.480. FEDERAL REIMBURSEMENT ALLOWANCE EXPIRATION DATE. — Notwithstanding the provisions of section 208.471 to the contrary, sections 208.453 to 208.480 shall expire on September 30, [2006] **2007**.

338.550. EXPIRATION DATE OF TAX, WHEN. — 1. The pharmacy tax required by sections 338.500 to 338.550 shall expire ninety days after any one or more of the following conditions are met:

(1) The aggregate dispensing fee as appropriated by the general assembly paid to pharmacists per prescription is less than the fiscal year 2003 dispensing fees reimbursement amount; or

(2) The formula used to calculate the reimbursement as appropriated by the general assembly for products dispensed by pharmacies is changed resulting in lower reimbursement to the pharmacist in the aggregate than provided in fiscal year 2003; or

(3) June 30, [2006] **2007**.

The director of the department of social services shall notify the revisor of statutes of the expiration date as provided in this subsection. The provisions of sections 338.500 to 338.550 shall not apply to pharmacies domiciled or headquartered outside this state which are engaged in prescription drug sales that are delivered directly to patients within this state via common carrier, mail or a carrier service.

2. Sections 338.500 to 338.550 shall expire on June 30, [2006] **2007**.

SECTION B. EMERGENCY CLAUSE. — Because of the need to preserve state revenue, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved June 12, 2006

SB 825 [HCS SS SCS SB 825]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates the "Kansas and Missouri Regional Investment District Compact" to promote public transit projects within the Kansas City metropolitan area

AN ACT to amend chapter 70, RSMo, by adding thereto seven new sections relating to the Kansas and Missouri Regional Investment District Compact.

SECTION

- A. Enacting clause.
- 70.515. Regional investment district compact with Kansas and Missouri.
- 70.520. Regional investment districts deemed special districts.
- 70.525. Sovereign immunity applicable to regional investment district and commissioners.
- 70.530. Members of the regional investment district commission reimbursed, when.
- 70.535. Countywide sales tax authorized for regional investment districts, rate, administration and collection, regional investment fund, use of revenues — appropriation of funds, expiration of tax — funds do not lapse — funds prohibited from use for certain special allocation funds.
- 70.540. Regional investment district compact expires, when.
- 70.545. Counties and commission may operate under compact if not authorized by Kansas, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 70, RSMo, is amended by adding thereto seven new sections, to be known as sections 70.515, 70.520, 70.525, 70.530, 70.535, 70.540, and 70.545, to read as follows:

70.515. REGIONAL INVESTMENT DISTRICT COMPACT WITH KANSAS AND MISSOURI. — **The Regional Investment District Compact is hereby enacted into law and entered into by the state of Missouri with the state of Kansas legally joining therein, in the form substantially as follows:**

KANSAS AND MISSOURI REGIONAL INVESTMENT DISTRICT COMPACT

I. AGREEMENT AND PLEDGE

The states of Kansas and Missouri agree to and pledge, each to the other, faithful cooperation in the support of regional programs and initiatives to benefit and serve the Kansas City metropolitan area, holding in high trust for the benefit of the people and of the nation, the special blessings and natural advantages thereof.

II. POLICY AND PURPOSE

The states of Kansas and Missouri desire, by common action, to provide support for regional programs and initiatives that will produce significant benefit to the Kansas City metropolitan area, with the goal of making more efficient use of resources through inter-

jurisdictional cooperation on strategic regional programs and initiatives involving public transit.

III. DEFINITIONS

A. "Commission" means the governing body of the Kansas and Missouri Regional Investment District.

B. "District" means the Kansas and Missouri Regional Investment District.

C. "Kansas and Missouri Regional Investment District" or "District" means a political subdivision of the states of Kansas and Missouri, which is created by this Compact and which is composed of those Kansas and Missouri counties, cities and other political subdivisions that are now or hereafter shall become parties to the Articles of Agreement executed on January 1, 1972, and thereafter amended, which geographic area covered by those political subdivisions is therein designated as the Mid-America Regional Planning Area.

D. "Mid-America Regional Council or MARC" means the body corporate and politic created by the Articles of Agreement, originally executed on January 1, 1972, and as thereafter amended, which therein assumed all the rights, duties and obligations of the Mid-America Council of Governments and the Metropolitan Planning Commission - Kansas City Region.

E. "Oversight Committee or Committee" means a body or bodies appointed by the Commission for a Regional Program that shall be constituted as set forth in Article IX of this Compact and that shall have the powers set forth in Article X of this Compact.

F. "Program Plan" means a plan developed for a proposed ballot question by the Commission, as required by Article VI, Section C of this Compact, that describes a Regional Program and provides for the appropriation and use of moneys derived from the sales tax authorized by this Compact in support of that Regional Program.

G. "Public Transit System" or "Transit System" means, without limitation, a regional system of public transit, consisting of property, structures, improvements, vehicles, potentially including, but not limited to, vans, buses, bus rapid transit, commuter rail, and other fixed guideways, equipment, software, telecommunications networks, plants, parking or other facilities, transit centers, stops, park-n-ride lots, transit related surface transportation improvements and rights-of-way used or useful for the purposes of public transit, which provides significant regional benefit, and the acquisition, construction, reconstruction, repair, maintenance, administration and operations thereof and similar activities related thereto, whether operated by one or multiple entities.

H. "Regional Program" means a program involving a Public Transit System.

IV. DISTRICT

A. Upon this Compact being entered into law by the Legislatures of the respective states, the Regional Investment District is created and shall include Buchanan County, Missouri, and all the geographic area within the jurisdictional limits of those Kansas and Missouri counties that are parties to the Articles of Agreement executed on January 1, 1972, and thereafter amended, which area is designated as the Mid-America Regional Planning Area, and currently includes the following counties:

Clay County, Missouri

Wyandotte County, Kansas

Platte County, Missouri

Johnson County, Kansas

Jackson County, Missouri

Leavenworth County, Kansas

Cass County, Missouri

Ray County, Missouri

B. The District automatically shall be expanded to include Kansas and Missouri cities, counties and other political subdivisions that hereafter shall become parties to the Articles of Agreement executed on January 1, 1972, and thereafter amended, upon the execution of the Articles of Agreement by the governing body of such political subdivisions.

V. THE COMMISSION

A. The District shall be governed by the Commission, which shall be a body corporate and politic and shall be composed of voting members of MARC, as that Council is constituted from time to time and which is also known as the Board of Directors and may include an elected chief official from Buchanan County appointed by its chief official. All of the members of the Commission shall be elected officials from the jurisdiction that appointed them as voting members of MARC's Board of Directors.

B. The terms of the members of the Commission shall expire concurrently with the member's tenure as an elected official of a jurisdiction that is a party to MARC's Articles of Agreement. If a jurisdiction that is a party to MARC's Articles of Agreement appoints a different member of its governing body to MARC, that newly appointed individual shall assume the position of the member replaced. Each member shall serve until that member's replacement has been sworn in as an elected official.

C. The Commission shall begin functioning immediately upon creation of the District, as provided for in Article IV, Section A hereof.

D. The Commission shall select annually, from its membership, a chairperson, a vice chairperson, and a treasurer. The treasurer shall be bonded in the amounts the Commission may require.

E. The Commission may appoint the officers, agents, and employees, as it may require for the performance of the Commission's duties, and shall determine the qualifications and duties and fix the compensation of those officers, agents and employees.

F. The Commission shall fix the time and place at which its meetings shall be held. Meetings shall be held within the District and shall be open to the public. Public notice shall be given of all meetings of the Commission.

G. A majority of the Commissioners from each state shall constitute, in the aggregate, a quorum for the transaction of business. No action of the Commission shall be binding unless taken at a meeting at which at least a quorum is present, and unless a majority of the Commissioners from each state, present at the meeting, shall vote in favor thereof. No action of the Commission taken at a meeting thereof shall be binding unless the subject of the action is included in a written agenda for the meeting, the agenda and notice of meeting having been provided to each Commissioner at least seven calendar days prior to the meeting.

H. The Commissioners from each state shall each be subject to the provisions of the laws of either the State of Kansas or the State of Missouri (depending upon the Commissioner's state of residence) relating to conflicts of interest of public officers and employees. If any Commissioner has a direct or indirect financial interest in any facility, service provider, organization or activity supported by the District or Commission or in any other business transaction of the District or Commission, the Commissioner shall disclose that interest in writing to the other Commissioners and shall abstain from voting on any matter in relation to that facility, organization or activity or to that business transaction.

I. If any action at law or equity, or other legal proceeding, shall be brought against any Commissioner for any act or omission arising out of the performance of their duties as a Commissioner, the Commissioner shall be indemnified in whole and held harmless by the Commission for any judgment or decree entered against the Commissioner and, further, shall be defended at the cost and expense of the Commission in any resulting proceeding.

J. Each member of the Commission shall serve as a member of the Commission without compensation for that service, except for payment of their actual and reasonably necessary expenses, as provided by Article VIII, Section A, 1.

VI. POWERS AND DUTIES OF THE COMMISSION

A. The Commission, formally the governing body of the District, shall primarily function as the planning and administrative arm for the District. The Commission shall: undertake community planning to identify regional programs and initiatives that will produce significant benefit to the Kansas City metropolitan area; fully develop the specifics regarding existing regional programs and initiatives and those newly identified regional programs and initiatives; prepare a Program Plan for regional programs and initiatives in consultation with local officials and the public; prepare ballot questions for programs and initiatives that the Commission determines could appropriately be supported by the sales tax authorized by this Compact; and assist an appointed Oversight Committee when requested by the Oversight Committee in the implementation of any Regional Program approved by District qualified electors in accordance with the terms of this Compact.

B. The Commission shall adopt a seal and suitable bylaws governing its management, procedure and effective operation.

C. The Commission shall develop a Program Plan for a Regional Program that it determines could appropriately be supported by the sales tax authorized by the Compact, which Program Plan shall generally describe the Regional Program and provide for the appropriation and use of moneys in support of that Regional Program only for the Eligible Uses set forth in Article VIII of this Compact. A Program Plan shall also designate:

1. the counties or county in which a majority of the qualified electors voting on the ballot question must cast an affirmative vote before the sales tax may be imposed by any individual county for uses in accordance with the Program Plan;

2. the duration of the sales tax imposed in support of the Regional Program, which may be described in terms of the number of years the tax shall be imposed, a maximum number of dollars that may be raised by the sales tax imposed or any other reasonable means of establishing the duration of the sales tax; provided that the sales tax shall not extend beyond the fifteen (15) years following the date of the first receipt by the county treasurer of revenue from the sales tax imposed to support the Regional Program unless renewed by the qualified electors of that county prior to its expiration; and

3. the composition of the Oversight Committee to be appointed by the Commission for that Regional Program, which composition shall be consistent with Article IX, Section A of this Compact.

D. The Commission, subject to the requirements of Article VII, Section C, shall set the date or dates by which the election shall be held pursuant to this Compact and shall recommend those counties or county which shall hold a vote on the ballot question prepared by the Commission for that Regional Program.

E. For each election to be held pursuant to this Compact, the Commission shall prepare and submit a ballot question to the governing body of each county within the District. Each such question shall be in the form set forth in Article VII, Section D of this Compact.

F. The Commission may prepare additional ballot language generally describing a Regional Program and the use and allocation of the sales tax proposed to be imposed for the support of a Regional Program, and shall submit that additional language to each county within the District. If additional ballot language is so submitted by the Commission, and a county governing body decides to place the ballot question before the qualified electors of that county, the additional ballot language shall be placed on the subject ballot by that governing body.

G. When a majority of the qualified electors in the county or counties designated in the Program Plan for that Regional Program as one of those counties that must cast an affirmative vote on the ballot question before the sales tax may be imposed, have cast an affirmative vote, the Commission shall, in accordance with Article IX, Section A of this Compact, appoint an Oversight Committee for that Program Plan.

H. The Commission shall have the power to contract and to be contracted with and to sue and to be sued.

I. The Commission, when it deems it necessary and when requested to do so by an Oversight Committee, shall interpret and/or provide guidance and further details on a Program Plan to assist in the oversight of the appropriation and use of moneys by the Oversight Committee for that Program Plan.

J. In accordance with written guidelines adopted by the Commission, which guidelines shall be consistent with the Program Plans required by Article VI, Section C, the Commission may receive or provide donations, contributions, and grants or other support, financial or otherwise, from public or private entities, for Program Plans and the Eligible Uses set forth in Article VIII of this Compact.

K. The Commission shall execute those contracts and agreements as an Oversight Committee shall direct to implement the Program Plan developed for an approved Regional Program, provided that, the Commission determines each contract is consistent with the Program Plan.

L. The Commission may appoint advisory committees to provide input, consultation, guidance and assistance to the Commission on matters and issues related to any purposes for which the District and the Commission are hereby created.

M. The Commission may form whatever partnerships, associations, joint ventures or other affiliations, formal or otherwise, as it deems appropriate and that are in furtherance of the purposes for which the District and the Commission are created.

N. The Commission may utilize assistance from any governmental or non-governmental entity, as it shall determine appropriate, in the form of personnel, technical expertise or other resources, to further the policies, purposes and goals of the District, as stated in Article II of this Compact.

O. The Commission shall cause to be prepared annually a report on the operations and transactions conducted by the Commission during the preceding year. The report shall be an open record submitted to the legislatures and governors of the compacting states and to the governing bodies of the jurisdictions that are then a party to MARC's Articles of Agreement and of Buchanan County, Missouri, on or before March 15th of each calendar year, commencing on March 15th of the year following the year in which the certification described in Article IV, Section B hereof occurs. The Commission shall take those actions as are reasonably required to make this report readily available to the public.

P. The Commission shall have the power to apply to the Congress of the United States for its consent and approval of this Compact, if it is determined by the Commission that this consent is appropriate. In the absence of the consent of the Congress and until consent is secured, if that consent is determined appropriate, this Compact is binding upon the states of Missouri and Kansas in all respects permitted by law of the two states.

Q. The Commission shall have the power to perform all other necessary and incidental functions and duties and to exercise all other necessary and appropriate powers, not inconsistent with other provisions of this Compact or the constitution or laws of the United States or of either of the states of Kansas or Missouri, that it deems appropriate to effectuate the purposes for which this District and the Commission are created.

VII. BALLOT QUESTIONS

A. The Commission, as required by Article VI, Section C, shall develop Program Plans for Regional Programs to be submitted to the qualified electors within the District. A Program Plan developed by the Commission shall be available to the public for review and comment in advance of dates set by the Commission for submission of a ballot question to the electors in the District.

B. The governing body of each county in the District shall determine whether the provision of financial support for a Regional Program is in the best interests of the citizens of the county and whether the levy of a sales tax to provide, on a cooperative basis with

another county or other counties, for financial support of the Regional Program would be economically practicable and cost beneficial to the citizens of the county and the District. Each governing body that makes an affirmative determination with respect hereto shall adopt a resolution evidencing that determination and authorizing a vote of its citizens on the ballot question for the Regional Program, by a two-thirds (2/3) majority vote of the members elect of the governing body.

C. Upon adoption of a resolution pursuant to Section B of this Article, the governing body of that county, promptly after adoption of the resolution, shall request the county election commissioner to submit the ballot question for that Regional Program to the qualified electors of that county. Each such ballot question shall be printed on the ballot and in the notice of election. Each ballot question shall be submitted to the qualified electors of that county at the primary or general election next following the date the request was filed with the county election officer.

D. The ballot for the proposition in each county shall be in substantially the following form:

Shall a sales tax (insert amount, not to exceed one-half cent) be levied and collected in County for the support of a Regional Program that will produce significant benefit within the Kansas and Missouri Regional Investment District, with such tax to extend no longer than(insert years not to exceed fifteen) years following the first receipt by the county treasurer of revenue from such tax?

☐ YES ☐ NO

E. The governing body of each of the counties that requested their county election commissioner submit the ballot question to its qualified electors also shall provide their respective county election officers with copies of any additional language prepared by the Commission, pursuant to Article VI, Section F, which additional language shall be included by each such county on the ballot.

F. The question of whether a sales tax for the support of a Regional Program involving a Public Transit System shall be imposed shall be submitted to qualified electors at the first election to be held on Regional Programs, pursuant to this Compact.

G. The governing body of any county in the District that does not pass the resolution contemplated by Section B of this Article in time to cause the placement of the ballot question before the qualified electors of that county at the first election or any subsequent election to be held on Regional Programs, pursuant to this Compact, may adopt that resolution at any time thereafter, and that ballot question shall be provided to the election commissioner of that county and submitted to the qualified electors of the county at the next primary or general election, in accordance with Section C of this Article.

H. In each county where a majority of the qualified electors voting in an election shall have cast an affirmative vote on a ballot question, that ballot question shall be approved.

I. If a ballot question is submitted to the qualified electors of a county in the District, and the ballot question is not approved in that county, following defeat of the ballot question, the governing body of that county or counties may renew procedures to levy the sales tax in support of that Regional Program. A defeat of a ballot question in any county shall not affect the approval of that ballot question in any other county, which approval shall continue to have effect.

J. No county in the District shall levy a sales tax specified herein until the qualified electors in all the counties designated by the Commission in the Program Plan for the subject Regional Program, as those that must approve the sales tax, have approved the levy of the sales tax to support the Program Plan for that Regional Program.

K. With respect to the first election to be held on Regional Programs pursuant to this Compact, no sales tax shall be levied by any county which has adopted the resolution contemplated by Section B and has submitted the ballot question to the qualified voters of that county pursuant to Section C of this Article, unless and until a majority of the

qualified electors of at least Johnson and Wyandotte Counties, Kansas, and Jackson County, Missouri, has approved the levy of a sales tax for the Regional Program involving a Public Transit System.

L. When, but only when, the electors in all of the counties designated by the Commission in the Program Plan for the Regional Program, as those that must approve the sales tax, have approved that ballot question, the governing body of each county that has approved that ballot question, at the first available opportunity, shall take all required actions to begin levying this tax.

M. Any of the counties that have elected by a vote of its electors to levy a sales tax authorized by this Compact may cease to levy this sales tax upon the majority vote of the qualified electors of the county on a ballot question submitted to qualified electors asking if that county should cease to levy this sales tax. This vote shall take place in the same manner provided in this section for levying this sales tax; provided that, no vote to cease to levy this sales tax shall take place in any county on a date earlier than a date that is five years from the date that county approved this sales tax. Provided further, in no event shall any county cease to levy this sales tax until that county has entered into a written agreement with the Commission, which agreement shall provide for the terms of cessation, and shall specifically provide: (1) a means to ensure that the county pays a fair share of the outstanding obligations incurred by the District in furtherance of its established purposes; and (2) for the ongoing operations and maintenance or the termination of any facilities or services established in the county with support provided by the Commission. The governing body of a county that has decided by this vote to cease to levy this sales tax shall send formal written notice thereof to each of the other counties comprising the District. In no event, shall the county cease to levy the sales tax earlier than ninety days after this notice has been sent. If any county in the District decides to cease levying the sales tax, the status of the District as a political subdivision of the states of Kansas and Missouri shall be unaltered and that county shall continue to have the representation on the Commission, as set forth in Article V of this Compact.

VIII. ELIGIBLE USES OF FUNDS

A. The Commission shall only budget and authorize the appropriation of monies for the following eligible purposes:

1. the actual and reasonably necessary expenses of the Commission and Oversight Committee, including, but not limited to, staff personnel, auditors, budget and financial consultation, legal assistance, administrative, operational, planning and engineering consultation and marketing, as well as for the actual and reasonably necessary expenses of individual Commission and Committee members that are incurred in the performance of their official duties; provided that, the Commission, in each fiscal year, shall not appropriate, for this purpose, any monies in excess of an amount that is equal to one percent of the funds appropriated to the Commission in that fiscal year by all of the counties imposing this sales tax; and

2. the support of voter approved Regional Programs within the District;

3. only pursuant to a contract with bodies corporate and politic, political subdivisions of the states of Missouri or Kansas and/or local units of government in the states of Missouri or Kansas, provided, however, the Commission may, in its discretion, require that entities contracted with shall procure a set percentage of Public Transit System services from third party contractors on a competitive basis; and

4. only in support of a Regional Program in counties that have voted affirmatively to impose a sales tax in support of that Regional Program.

B. The aggregate amount of sales taxes imposed by any county within the District, pursuant to the authority granted in this Compact, shall not exceed one-half cent.

IX. THE OVERSIGHT COMMITTEE

A. An Oversight Committee shall be appointed by the Commission for a Regional Program, as provided for in Article VI, Section G hereof. An Oversight Committee shall be composed of elected officials of jurisdictions that are within a county where a majority of the qualified electors voting on the ballot question have cast an affirmative vote on the imposition of a sales tax to support the subject Regional Program. An Oversight Committee shall be composed of the elected officials designated in the Program Plan for the Regional Program. An Oversight Committee shall include a minimum of one elected representative from each county that approves that ballot question and elected representatives from both cities and counties and each representative shall be approved by the chief elected official of the county or city from which they are elected. If the Program Plan describes a Regional Program that serves both Missouri and Kansas, the Oversight Committee shall be composed of an equal number of elected representatives from each state. In such instances, no action of the Commission shall be binding unless taken at a meeting at which at least a quorum is present, and unless a majority of the Commissioners from each state, present at the meeting, shall vote in favor thereof. The number of individuals comprising the Oversight Committee shall be in the sole discretion of the Commission.

B. An Oversight Committee shall be appointed within forty-five days of certification that the ballot question has been approved by the last of the counties designated by the Commission in the Program Plan for the Regional Plan, pursuant to Article VI, Section C,1 hereof, to so certify and shall begin functioning immediately upon its appointment by the Commission. If, pursuant to Article VII, Section K, additional counties within the District shall approve the ballot question, the Commission shall appoint a minimum of one additional representative from each such county to the Oversight Committee.

C. An appointed Oversight Committee shall fix the time and place at which its meetings shall be held. Meetings shall be held at a location in a county that has approved the imposition of the sales tax to support the Program Plan for the subject Regional Program and shall be open to the public. Public notice shall be given of all meetings of the Committee.

D. The Committee members shall each be subject to the provisions of the laws of either the State of Kansas or the State of Missouri (depending upon the Committee member's state of residence) that relate to conflicts of interest of public officers and employees. If any Committee member has a direct or indirect financial interest in any facility, service provider, organization or activity supported by the District or Commission or in any other business transaction of the District or Commission, the Committee member shall disclose that interest in writing to the members of the Commission and to the other members of the Committee and shall abstain from voting on any matter in relation to that facility, organization or activity or to that business transaction with respect to which that Committee member has the interest.

E. If any action at law or equity, or other legal proceeding, shall be brought against any Committee member for any act or omission arising out of the performance of duties as a Committee member, the Committee member shall be indemnified in whole and held harmless by the Commission for any judgment or decree entered against the Committee member and, further, shall be defended at the cost and expense of the Commission in any resulting proceeding.

F. The Oversight Committee for a Regional Program shall terminate on the date when all of the moneys derived from the sales tax imposed by any or all counties in the District to support the Program Plan for that Regional Program and which have been credited to the Regional Investment Fund have been expended.

X. POWERS AND DUTIES OF THE OVERSIGHT COMMITTEE

A. The Oversight Committee for an approved Regional Program is charged with the oversight of the appropriation and use of moneys generated from the sales taxes and

credited to the Regional Investment Fund. These moneys shall be appropriated only for the Eligible Uses set forth in Article VIII of this Compact.

B. An Oversight Committee shall only provide support for and allocate and appropriate monies for programs, services and facilities that are consistent with the voter approved Program Plan developed by the Commission and only for programs, services and facilities in counties that have approved the imposition of a sales tax in support of the Regional Program. If the Committee is uncertain or has any question about whether a specific appropriation of moneys or support activity is consistent with the Program Plan developed by the Commission, it shall seek a determination on that question from the Commission.

C. An Oversight Committee, as appropriate, shall direct that the Commission execute those contracts and agreements necessary or desirable to implement the Program Plan developed by the Commission.

D. An Oversight Committee shall adopt suitable bylaws governing its management, procedure and its effective operations.

E. An Oversight Committee shall provide the information that the Commission shall require to allow the Commission to prepare annually a report on the operations and transactions conducted by the Commission during the preceding year relating to the approved Regional Programs. This information shall include an annual financial statement prepared in accordance with General Accepted Accounting Principles (GAAP). The Oversight Committee for a Public Transit Service Regional Program shall also provide a report on operational statistics, including statistics on the ridership of the Public Transit System funded with sales tax revenues resulting from the authority granted by this Compact, comparing ridership in the then current fiscal year to ridership in the three fiscal years next preceding.

XI. FINANCE

A. The moneys necessary to finance the operation of the District, implement the voter approved Program Plans and execute the powers, duties and responsibilities of the Commission shall be appropriated to the Commission by the counties comprising the District, which, in accordance with Article VII, Section J of the Compact, have approved the ballot question for the subject Regional Program. The moneys to be appropriated to the Commission, in addition to the sales tax authorized by this Compact, may be raised by the governing bodies of the respective counties by the levy of taxes, fees, charges or any other revenue, as authorized by those counties or cities in those counties or by the legislatures of the respective party states, provided nothing herein shall require either state to make appropriations for any purpose.

B. Neither the Commission nor any Oversight Committee shall incur any indebtedness of any kind; nor shall they pledge the credit of MARC or any jurisdiction that is party to MARC's Articles of Agreement or either of the states party to this Compact, except as specifically authorized by this Compact. The budget of the District shall be prepared, adopted and published, as provided by law, for other political subdivisions of the party states.

C. The Commission and an Oversight Committee shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become a part of the annual report of the Commission.

D. The accounts of the Commission shall be open at any reasonable time for inspection by duly authorized representatives of the compacting states, the counties comprising the District, and other persons authorized by the Commission.

XII. ENTRY INTO FORCE

A. This Compact shall enter into force and become effective and binding upon the states of Kansas and Missouri when it has been entered into law by the legislatures of the respective states.

B. Amendments to the Compact shall become effective upon enactment by the legislatures of the respective states.

XIII. TERMINATION

A. The Compact shall continue in force and remain binding upon a party state until its legislature shall have enacted a statute repealing the same and providing for the sending of formal written notice of enactment of that statute to the legislature of the other party state. Upon enactment of that statute by the legislature of either party state, the sending of notice thereof to the other party and payment of any obligations that the Commission may have incurred prior to the effective date of that statute, the agreement of the party states embodied in the Compact shall be deemed fully executed, the Compact shall be null and void and of no further force or effect, the District shall be dissolved, and the Commission shall be abolished. If any monies remain in the Regional Investment Fund upon dissolution of this Compact, the Commission may distribute these monies to an entity or organization selected by the Commission to be used to support purposes for which the District is hereby created, as stated in Article II of this Compact.

XIV. CONSTRUCTION AND SEVERABILITY

A. The provisions of this Compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitutions of either of the party states or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of either party state hereto, the Compact shall thereby be nullified and voided and of no further force or effect.

70.520. REGIONAL INVESTMENT DISTRICTS DEEMED SPECIAL DISTRICTS. — The regional investment district created under section 70.515 shall be considered to be a special district under the provisions of sections 115.001 to 115.641, RSMo.

70.525. SOVEREIGN IMMUNITY APPLICABLE TO REGIONAL INVESTMENT DISTRICT AND COMMISSIONERS. — The provisions of sections 537.600 to 537.650, RSMo, shall apply to the regional investment district and to the Missouri members of the regional investment district commission established in section 70.515.

70.530. MEMBERS OF THE REGIONAL INVESTMENT DISTRICT COMMISSION REIMBURSED, WHEN. — Missouri members of the regional investment district commission, appointed under section 70.515, shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

70.535. COUNTYWIDE SALES TAX AUTHORIZED FOR REGIONAL INVESTMENT DISTRICTS, RATE, ADMINISTRATION AND COLLECTION, REGIONAL INVESTMENT FUND, USE OF REVENUES — APPROPRIATION OF FUNDS, EXPIRATION OF TAX — FUNDS DO NOT LAPSE — FUNDS PROHIBITED FROM USE FOR CERTAIN SPECIAL ALLOCATION FUNDS. — **1.** The governing body of any county that has been authorized by a majority of the electors of the county to levy and collect a tax for the purpose of contributing to the financial support of the district, authorized by article IV of the compact enacted in section 70.515, shall adopt a resolution imposing a countywide sales tax and pledging the revenues received therefrom for the purpose of contributing to the financial support of the district, with respect to a countywide sales tax authorized by the compact enacted by section 70.515. The rate of

this tax shall be fixed at an amount of not more than one-half percent in the aggregate. Any county levying a countywide sales tax under the authority of this section is hereby prohibited from administering or collecting the tax locally, but shall utilize the services of the state department of revenue to administer, enforce and collect the tax. The sales tax shall be administered, enforced and collected in the same manner and by the same procedure as other countywide sales taxes are levied and collected and shall be in addition to any other sales tax authorized by law. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed under this section. Upon receipt of a certified copy of a resolution authorizing the levy of a countywide sales tax under this section, the director of the department of revenue shall cause this tax to be collected at the same time and in the same manner provided for the collection of the state sales tax. All moneys derived from the countywide sales tax imposed under the authority of the compact enacted in section 70.515 and collected under the provisions of this section by the director of revenue shall be credited to the "Regional Investment Fund", which is hereby established in the state treasury. Any refund due on any countywide sales tax collected under this section shall be paid out of the sales tax refund fund and reimbursed by the director of revenue from the sales tax revenue collected under this section. All countywide sales tax revenue derived from the authority granted by the compact enacted in section 70.515 and collected within any county, under this section, shall be remitted at least quarterly by the director of revenue to the treasurer of that county.

2. All revenue received by any county treasurer from a countywide sales tax imposed under the authority of the compact enacted in section 70.515 and under this section shall be appropriated by the county to the Kansas and Missouri regional investment district commission within sixty days of receipt of the funds by the county for expenditure by the commission pursuant to, and in accordance with, the provisions of the Kansas and Missouri regional investment district compact, enacted in section 70.515. Any countywide sales tax imposed under this section shall expire upon the date determined in accordance with the program plan for the regional program that is the subject of the ballot question approved by the qualified electors of such county for that subject regional program; provided that, no sales tax shall be levied for a period of more than fifteen years from the date of the first receipt by the county treasurer of revenue from that sales tax unless renewed by the qualified electors of that county prior to its expiration, or on the date of actual withdrawal of the county from the district or upon compliance by the county with the provisions of Article IV, Section J, or at any time the Kansas and Missouri regional investment district compact becomes null and void and of no further force or effect. If any revenue remains upon nullification and voidance of the Kansas and Missouri regional investment district compact, under section 70.515, the director of revenue shall authorize the state treasurer to remit the balance in the account to the county and close the account of that county.

3. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, money in the Kansas and Missouri regional investment district sales tax fund shall not be transferred and placed to the credit of general revenue at the end of the biennium.

4. Notwithstanding the provisions of section 99.845, RSMo, to the contrary, the revenues from the countywide sales taxes imposed by counties under the authority of the compact enacted in section 70.515 and pursuant hereto shall not be allocated to and paid by the state department of revenue to any special allocation fund established by any municipality under sections 99.800 to 99.865, RSMo, the real property tax increment oversight redevelopment statutes.

70.540. REGIONAL INVESTMENT DISTRICT COMPACT EXPIRES, WHEN. — The provisions of sections 70.515 to 70.540 shall expire upon nullification and voidance of the regional investment district compact, under the compact enacted in section 70.515.

70.545. COUNTIES AND COMMISSION MAY OPERATE UNDER COMPACT IF NOT AUTHORIZED BY KANSAS, WHEN. — If the state of Kansas has not authorized the compact as outlined in section 70.515 by July 1, 2007, any Missouri county in the district and the district, commission, and an oversight committee shall have all the powers and duties and may operate as set forth in sections 70.515 to 70.545.

Approved June 29, 2006

SB 828 [SB 828]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Repeals the sunset provision for dental hygienists

AN ACT to repeal section 332.311, RSMo, and to enact in lieu thereof one new section relating to dental hygienist.

SECTION

A. Enacting clause.

332.311. Dental hygienist to practice under dentist supervision only — no supervision required for fluoride treatments, teeth cleaning and sealants.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 332.311, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 332.311, to read as follows:

332.311. DENTAL HYGIENIST TO PRACTICE UNDER DENTIST SUPERVISION ONLY — NO SUPERVISION REQUIRED FOR FLUORIDE TREATMENTS, TEETH CLEANING AND SEALANTS. —

1. Except as provided in subsection 2 of this section, a duly registered and currently licensed dental hygienist may only practice as a dental hygienist so long as the dental hygienist is employed by a dentist who is duly registered and currently licensed in Missouri, or as an employee of such other person or entity approved by the board in accordance with rules promulgated by the board. In accordance with this chapter and the rules promulgated by the board pursuant thereto, a dental hygienist shall only practice under the supervision of a dentist who is duly registered and currently licensed in Missouri, except as provided in subsection 2 of this section.

2. A duly registered and currently licensed dental hygienist who has been in practice at least three years and who is practicing in a public health setting may provide fluoride treatments, teeth cleaning and sealants, if appropriate, to children who are eligible for medical assistance, pursuant to chapter 208, RSMo, without the supervision of a dentist. Medicaid shall reimburse any eligible provider who provides fluoride treatments, teeth cleaning, and sealants to eligible children. Those public health settings in which a dental hygienist may practice without the

supervision of a dentist shall be established jointly by the department of health and senior services and by the Missouri dental board by rule. [This provision shall expire on August 28, 2006.]

Approved June 29, 2006

SB 830 [SCS SB 830]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes provisions regarding military leave for Kansas City police officers and civilian employees.

AN ACT to repeal sections 86.1110, 86.1140, 86.1490, and 86.1500, RSMo, and to enact in lieu thereof four new sections relating to police military leave.

SECTION

- A. Enacting clause.
- 86.1110. Military leave of absence, effect of — service credit for military service, when.
- 86.1140. Leave of absence not to act as termination of membership — creditable service permitted, when.
- 86.1490. Creditable service, inclusions and exclusions.
- 86.1500. Military service, effect on creditable service — election to purchase creditable service, when — service credit for military service, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 86.1110, 86.1140, 86.1490, and 86.1500, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 86.1110, 86.1140, 86.1490, and 86.1500, to read as follows:

86.1110. MILITARY LEAVE OF ABSENCE, EFFECT OF — SERVICE CREDIT FOR MILITARY SERVICE, WHEN. — 1. Whenever a member is given a leave of absence for military service and returns to employment after discharge from the service, such member shall be entitled to creditable service for the years of employment prior to the leave of absence.

2. **Except as provided in subsection 3 of this section,** any member who served on active duty in the armed forces of the United States and who became a member, or returned to membership, after discharge under honorable conditions, may elect prior to retirement to purchase creditable service equivalent to such service in the armed forces, not to exceed two years, provided the member is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan for the service to be purchased, other than a United States military service retirement system or United States Social Security benefits attributable to such military service, and an affidavit so stating is filed by the member with the retirement system. A member electing to make such purchase shall pay to the retirement system an amount equal to the actuarial value of the additional benefits attributable to the additional service credit to be purchased, as of the date the member elects to make such purchase. The retirement system shall determine such value using accepted actuarial methods and the same assumptions with respect to interest rates, mortality, future salary increases, and all related factors used in performing the most recent regular actuarial valuation of the retirement system. Payment in full of the amount due from a member electing to purchase creditable service under this subsection shall be made over a period not to exceed five years, measured from the date of election, or prior to the commencement date for payment of benefits to the member from the

retirement system, whichever is earlier, including interest on unpaid balances compounded annually at the interest rate assumed from time to time for actuarial valuations of the retirement system. If payment in full including interest is not made within the prescribed period, any partial payments made by the member shall be refunded, and no creditable service attributable to such election, or as a result of any such partial payments, shall be allowed; provided that if a benefit commencement date occurs because of the death or disability of a member who has made an election under this subsection and if the member is current in payments under an approved installment plan at the time of the death or disability, such election shall be valid if the member, the surviving spouse, or other person entitled to benefit payments pays the entire balance of the remaining amount due, including interest to the date of such payment, within sixty days after the member's death or disability. The time of a disability shall be deemed to be the time when such member is retired by the board of police commissioners for reason of disability as provided in sections 86.900 to 86.1280.

3. Notwithstanding any other provision of sections 86.900 to 86.1280, a member who is on leave of absence for military service during any portion of which leave the United States is in a state of declared war, or a compulsory draft is in effect for any of the military branches of the United States, or any units of the military reserves of the United States, including the National Guard, are mobilized for combat military operations, and who becomes entitled to reemployment rights and other employment benefits under 38 U.S.C. 43, relating to employment and reemployment rights of members of the uniformed service by meeting the requirements for such rights and benefits under section 4312 of said chapter, or the corresponding provisions of any subsequent applicable U.S. statute, shall be entitled to service credit for the time spent in such military service for all purposes of sections 86.900 to 86.1280 and such member shall not be required to pay any member contributions for such time. If it becomes necessary for the years of such service to be included in the calculation of such member's compensation for any purpose, such member shall be deemed to have received the same compensation throughout such period of service as the member's base annual salary immediately prior to the commencement of such leave of absence.

86.1140. LEAVE OF ABSENCE NOT TO ACT AS TERMINATION OF MEMBERSHIP — CREDITABLE SERVICE PERMITTED, WHEN. — 1. Should any member be granted leave of absence by the board of police commissioners, such member shall not, because of such absence, cease to be a member.

2. If a member is on leave of absence by authority of the board of police commissioners for thirty consecutive days or less, such member shall receive creditable service for such time.

3. **Except as provided in subsection 3 of section 86.1110,** if a member is on leave of absence for more than thirty consecutive days without compensation, such member shall not receive service credits for such time unless such member shall, within one year after returning from such absence, pay into the retirement system an amount equal to the member's contribution percentage at the time such absence began times an assumed salary figure for the period of such absence, computed by assuming that such member received a salary during such absence at the rate of the base annual salary the member was receiving immediately prior to such absence.

86.1490. CREDITABLE SERVICE, INCLUSIONS AND EXCLUSIONS. — 1. Except as provided in subsection 3 of section 86.1500, creditable service at retirement on which the retirement allowance of a member is based consists of the membership service rendered by such member for which such member received compensation since such member last became a member.

2. Creditable service also includes any prior service credit to which a member may be entitled by virtue of an authorized purchase of such credit or as otherwise provided in sections 86.1310 to 86.1640.

3. Creditable service shall not include any time a member was suspended from service without compensation. No contribution is required from either the member under section 86.1400 or from the city under section 86.1390 for such time.

86.1500. MILITARY SERVICE, EFFECT ON CREDITABLE SERVICE — ELECTION TO PURCHASE CREDITABLE SERVICE, WHEN — SERVICE CREDIT FOR MILITARY SERVICE, WHEN.

— 1. Whenever a member is given a leave of absence for military service and returns to employment after discharge from the service, such member shall be entitled to creditable service for the years of employment prior to the leave of absence.

2. **Except as provided in subsection 3 of this section**, any member who served on active duty in the armed forces of the United States and who became a member, or returned to membership, after discharge under honorable conditions, may elect prior to retirement to purchase creditable service equivalent to such service in the armed forces, not to exceed two years, provided the member is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan for the service to be purchased, other than a United States military service retirement system or United States Social Security benefits attributable to such military service, and an affidavit so stating is filed by the member with the retirement system. A member electing to make such purchase shall pay to the retirement system an amount equal to the actuarial value of the additional benefits attributable to the additional service credit to be purchased, as of the date the member elects to make such purchase. The retirement system shall determine such value using accepted actuarial methods and the same assumptions with respect to interest rates, mortality, future salary increases, and all related factors used in performing the most recent regular actuarial valuation of the retirement system. Payment in full of the amount due from a member electing to purchase creditable service under this subsection shall be made over a period not to exceed five years, measured from the date of election, or prior to the commencement date for payment of benefits to the member from the retirement system, whichever is earlier, including interest on unpaid balances compounded annually at the interest rate assumed from time to time for actuarial valuations of the retirement system. If payment in full including interest is not made within the prescribed period, any partial payments made by the member shall be refunded, and no creditable service attributable to such election, or as a result of any such partial payments, shall be allowed; provided that if a benefit commencement date occurs because of the death or disability of a member who has made an election under this subsection and if the member is current in payments under an approved installment plan at the time of the death or disability, such election shall be valid if the member, the surviving spouse or other person entitled to benefit payments pays the entire balance of the remaining amount due, including interest to the date of such payment, within sixty days after the member's death or disability. The time of a disability shall be deemed to be the time when such member is determined by the retirement board to be totally and permanently disabled as provided in section 86.1560.

3. **Notwithstanding any other provision of sections 86.1310 to 86.1640, a member who is on leave of absence for military service during any portion of which leave the United States is in a state of declared war, or a compulsory draft is in effect for any of the military branches of the United States, or any units of the military reserves of the United States, including the National Guard, are mobilized for combat military operations, and who becomes entitled to reemployment rights and other employment benefits under 38 U.S.C. 43, relating to employment and reemployment rights of members of the uniformed service by meeting the requirements for such rights and benefits under section 4312 of said chapter, or the corresponding provisions of any subsequent applicable U.S. statute, shall be entitled to service credit for the time spent in such military service for all purposes of sections 86.1310 to 86.1640 and such member shall not be required to pay any member contributions for such time. If it becomes necessary for the years of such service to be included in the calculation of such member's compensation for any purpose, such member**

shall be deemed to have received the same compensation throughout such period of service as the member's base annual salary immediately prior to the commencement of such leave of absence.

Approved June 29, 2006

SB 834 [HCS SB 834]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Alters various provisions of the state's special education policy

AN ACT to repeal sections 162.700, 162.950, 162.955, 162.961, and 167.020, RSMo, and to enact in lieu thereof four new sections relating to special education, with penalty provisions.

SECTION

- A. Enacting clause.
- 162.700. Special educational services, required, when — diagnostic reports, how obtained — evaluations of private school students with disabilities — special services, ages three and four — remedial reading program, how funded.
- 162.955. Change in assignment, prohibited, when — child endangering self or others, court order — placement of child during interim.
- 162.961. Due process hearing before panel, members and chairman chosen, how — written report — expedited hearing — forty-five day placement — hearing requirements — preliminary meeting.
- 167.020. Registration requirements — residency — homeless child or youth defined — recovery of costs, when — records to be requested, provided, when.
- 162.950. Resolution conference, requested how — reevaluation.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 162.700, 162.950, 162.955, 162.961, and 167.020, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 162.700, 162.955, 162.961, and 167.020, to read as follows:

162.700. SPECIAL EDUCATIONAL SERVICES, REQUIRED, WHEN — DIAGNOSTIC REPORTS, HOW OBTAINED — EVALUATIONS OF PRIVATE SCHOOL STUDENTS WITH DISABILITIES — SPECIAL SERVICES, AGES THREE AND FOUR — REMEDIAL READING PROGRAM, HOW FUNDED. — 1. The board of education of each school district in this state, except school districts which are part of a special school district, and the board of education of each special school district shall provide special educational services for handicapped children three years of age or more residing in the district as required by P.L. 99-457, as codified and as may be amended. Any child, determined to be handicapped, shall be eligible for such services upon reaching his or her third birthday and state school funds shall be apportioned accordingly. This subsection shall apply to each full school year beginning on or after July 1, 1991. In the event that federal funding fails to be appropriated at the authorized level as described in 20 U.S.C. 1419(b)(2), the implementation of this subsection relating to services for handicapped children three and four years of age may be delayed until such time as funds are appropriated to meet such level. Each local school district and each special school district shall be responsible to engage in a planning process to design the service delivery system necessary to provide special education and related services for children three and four years of age with handicaps. The planning process shall include public, private and private not-for-profit agencies which have provided such services for this population. The school district, or school districts, or special

school district, shall be responsible for designing an efficient service delivery system which uses the present resources of the local community which may be funded by the department of elementary and secondary education or the department of mental health. School districts may coordinate with public, private and private not-for-profit agencies presently in existence. The service delivery system shall be consistent with the requirements of the department of elementary and secondary education to provide appropriate special education services in the least restrictive environment.

2. Every local school district or, if a special district is in operation, every special school district shall obtain current appropriate diagnostic reports for each handicapped child prior to assignment in a special program. These records may be obtained with parental permission from previous medical or psychological evaluation, may be provided by competent personnel of such district or special district, or may be secured by such district from competent and qualified medical, psychological or other professional personnel.

3. **Evaluations of private school students suspected of having a disability under the Individuals With Disabilities Education Act will be conducted as appropriate by the school district in which the private school is located or its contractor.**

4. Where special districts have been formed to serve handicapped children under the provisions of sections 162.670 to 162.995, such children shall be educated in programs of the special district, except that component districts may provide education programs for handicapped children ages three and four inclusive in accordance with regulations and standards adopted by the state board of education.

[4.] 5. For the purposes of this act, remedial reading programs are not a special education service as defined by subdivision (4) of section 162.675 [but shall be funded in accordance with the provisions of section 162.975].

[5.] 6. Any and all state costs required to fund special education services for three- and four-year-old children pursuant to this section shall be provided for by a specific, separate appropriation and shall not be funded by a reallocation of money appropriated for the public school foundation program.

[6.] 7. School districts providing early childhood special education shall give consideration to the value of continuing services with Part C early intervention system providers for the remainder of the school year when developing an individualized education program for a student who has received services pursuant to Part C of the Individuals With Disabilities Education Act and reaches the age of three years during a regular school year. Services provided shall be only those permissible according to Section 619 of the Individuals with Disabilities Education Act.

[7.] 8. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

162.955. CHANGE IN ASSIGNMENT, PROHIBITED, WHEN — CHILD ENDANGERING SELF OR OTHERS, COURT ORDER — PLACEMENT OF CHILD DURING INTERIM. — 1. Except as otherwise provided in this section, during the pendency of any administrative or judicial proceeding pursuant to sections [162.950,] 162.961 and 162.963 no change in the assignment or status of a handicapped or severely handicapped child shall be made except that such change may be made with the written consent of the parent or guardian. If written consent cannot be obtained and the child is endangering himself or others, the assignment or status can be changed pursuant to court order, but without prejudice to any rights that the child and the parent or guardian may have pursuant to sections 162.670 to 162.999 or otherwise pursuant to law.

2. During the pendency of any administrative or judicial proceeding pursuant to sections [162.950,] 162.961 and 162.963, to challenge a placement changed because of a disciplinary action to an interim alternative educational setting or to challenge the manifestation determination in connection with a disciplinary change of placement, the child shall remain in the interim alternative educational setting pending the due process hearing or until expiration of the time period of the interim alternative educational setting, whichever first occurs, unless the parent and responsible public agency agree otherwise.

3. If during an interim alternative educational setting arranged because of a disciplinary action involving weapons, drugs, or serious bodily injury, or because the child is a danger to himself or others, the responsible educational agency proposes to change the child's placement after expiration of the interim placement, and the parents challenge the proposed change by requesting a due process hearing, the child shall remain in his current placement, which is the placement before the interim alternative educational setting, during pending proceedings to challenge the change. The responsible educational agency may request an expedited hearing pursuant to section 162.961, if it is believed it is dangerous for the child to remain in the current placement.

162.961. DUE PROCESS HEARING BEFORE PANEL, MEMBERS AND CHAIRMAN CHOSEN, HOW — WRITTEN REPORT — EXPEDITED HEARING — FORTY-FIVE DAY PLACEMENT — HEARING REQUIREMENTS — PRELIMINARY MEETING. — 1. [The resolution conference provided for in section 162.950 shall be conducted by the chief administrative officer of the responsible school district or a designee. The conference shall be informal, witnesses need not be sworn and a record of the proceedings need not be made. The school district or the state department of elementary and secondary education shall see that the parent or guardian or his representative is advised of and permitted to review all diagnoses, evaluations and reevaluations obtained by the board of education or the state department of elementary and secondary education which pertain to the child. The school district or state department of elementary and secondary education shall fully advise the parents or guardian or their representative of each reason relied upon by it in taking the proposed action. The parents or guardian or their representative may present any information whether written or oral to the officer which pertains to the recommended action. Questioning of all witnesses shall be permitted.

2. The resolution conference may be waived by the parents or guardian. If the parent or guardian waives the resolution conference and requests a three-member panel hearing, the state board of education shall empower such a panel pursuant to subsection 3 of this section. That empowerment shall take place within fifteen days of the request for the three-member panel hearing.

3.] A parent, guardian or the responsible educational agency may request a due process hearing by the state board of education with respect to any matter relating to identification, evaluation, educational placement, or the provision of a free appropriate public education of the child. Such request shall include the child's name, address, school, issue, and suggested resolution of dispute if known. Except as provided in subsection [6] 4 of this section, the board or its delegated representative shall within fifteen days after receiving notice empower a hearing panel of three persons who are not directly connected with the original decision and who are not employees of the board to which the appeal has been made. All of the panel members shall have some knowledge or training involving children with disabilities, none shall have a personal or professional interest which would conflict with his or her objectivity in the hearing, and all shall meet the department of elementary and secondary education's training and assessment requirements pursuant to state regulations and federal law and regulation requirements of the Individuals With Disabilities Education Act. One person shall be chosen by the local school district board or its delegated representative or the responsible educational agency, and one person shall be chosen at the recommendation of the parent or guardian. If either party has not chosen a panel member ten days after the receipt by the department of elementary and secondary

education of the request for a due process hearing, such panel member shall be chosen instead by the department of elementary and secondary education. Each of these two panel members shall be compensated pursuant to a rate set by the department of elementary and secondary education. The third person shall be appointed by the state board of education and shall serve as the chairperson of the panel. The chairperson shall be an attorney licensed to practice law in this state. During the pendency of any three-member panel hearing, or prior to the empowerment of the panel, the parties may, by mutual agreement, submit their dispute to a mediator pursuant to section 162.959.

[4.] **2.** The parent or guardian, school official, and other persons affected by the action in question shall present to the hearing panel all pertinent evidence relative to the matter under appeal. All rights and privileges as described in section 162.963 shall be permitted.

[5.] **3.** After review of all evidence presented and a proper deliberation, the hearing panel, within [forty-five days of receipt of the request for a due process hearing, except as provided in subsection 6 of this section relating to expedited hearings] **the timelines required by the Individuals With Disabilities Education Act, 20 U.S.C. Section 1415 and any amendments thereto**, shall by majority vote determine its findings, conclusions, and decision in the matter in question and forward the written decision to the parents or guardian of the child and to the president of the appropriate local board of education or responsible educational agency and to the department of elementary and secondary education. A specific extension of the time line may be made by the chairman at the request of either party, except in the case of an expedited hearing as provided in subsection [6] **4** of this section.

[6.] **4.** An expedited due process hearing by the state board of education may be requested by a parent to challenge a disciplinary change of placement or to challenge a manifestation determination in connection with a disciplinary change of placement or by a responsible educational agency to seek a forty-five school day alternative educational placement for a dangerous or violent student. The board or its delegated representative shall appoint a hearing officer to hear the case and render a decision within the time line required by federal law and state regulations implementing federal law. The hearing officer shall be an attorney licensed to practice law in this state. The hearing officer shall have some knowledge or training involving children with disabilities, shall not have a personal or professional interest which would conflict with his or her objectivity in the hearing, and shall meet the department of elementary and secondary education's training and assessment requirements pursuant to state regulations and federal law and regulation requirements of the Individuals With Disabilities Education Act. A specific extension of the time line is only permissible to the extent consistent with federal law and pursuant to state regulations.

[7.] **5.** If the responsible public agency requests a due process hearing to seek a forty-five school day alternative educational placement for a dangerous or violent student, the agency shall show by substantial evidence that there is a substantial likelihood the student will injure himself or others and that the agency made reasonable efforts to minimize that risk, and shall show that the forty-five school day alternative educational placement will provide a free appropriate public education which includes services and modifications to address the behavior so that it does not reoccur, and continue to allow progress in the general education curriculum.

[8.] **6.** Any due process hearing request and responses to the request shall conform to the requirements of the Individuals With Disabilities Education Act (IDEA). Determination of the sufficiency shall be made by the chairperson of the three-member hearing panel, or in the case of an expedited due process hearing, by the hearing officer. The chairperson or hearing officer shall implement the process and procedures, including time lines, required by the IDEA, related to sufficiency of notice, response to notice, determination of sufficiency dispute, and amendments of the notice.

[9.] **7.** A preliminary meeting, known as a resolution session, shall be convened by the responsible public agency, under the requirements of the IDEA. The process and procedures

required by the IDEA in connection to the resolution session and any resulting written settlement agreement shall be implemented.

167.020. REGISTRATION REQUIREMENTS — RESIDENCY — HOMELESS CHILD OR YOUTH DEFINED — RECOVERY OF COSTS, WHEN — RECORDS TO BE REQUESTED, PROVIDED, WHEN. — 1. As used in this section, the term "homeless child" or "homeless youth" shall mean a person less than twenty-one years of age who lacks a fixed, regular and adequate nighttime residence, including a child or youth who:

(1) Is sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; is living in motels, hotels, or camping grounds due to lack of alternative adequate accommodations; is living in emergency or transitional shelters; is abandoned in hospitals; or is awaiting foster care placement;

(2) Has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;

(3) Is living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

(4) Is a migratory child or youth who qualifies as homeless because the child or youth is living in circumstances described in subdivisions (1) to (3) of this subsection.

2. In order to register a pupil, the parent or legal guardian of the pupil or the pupil himself or herself shall provide, at the time of registration, one of the following:

(1) Proof of residency in the district. Except as otherwise provided in section 167.151, the term "residency" shall mean that a person both physically resides within a school district and is domiciled within that district **or, in the case of a private school student suspected of having a disability under the Individuals With Disabilities Education Act, 20 U.S.C. Section 1412 et seq, that the student attends private school within that district.** The domicile of a minor child shall be the domicile of a parent, military guardian pursuant to a military-issued guardianship or court-appointed legal guardian; or

(2) Proof that the person registering the student has requested a waiver under subsection 3 of this section within the last forty-five days. In instances where there is reason to suspect that admission of the pupil will create an immediate danger to the safety of other pupils and employees of the district, the superintendent or the superintendent's designee may convene a hearing within five working days of the request to register and determine whether or not the pupil may register.

3. Any person subject to the requirements of subsection 2 of this section may request a waiver from the district board of any of those requirements on the basis of hardship or good cause. Under no circumstances shall athletic ability be a valid basis of hardship or good cause for the issuance of a waiver of the requirements of subsection 2 of this section. The district board or committee of the board appointed by the president and which shall have full authority to act in lieu of the board shall convene a hearing as soon as possible, but no later than forty-five days after receipt of the waiver request made under this subsection or the waiver request shall be granted. The district board or committee of the board may grant the request for a waiver of any requirement of subsection 2 of this section. The district board or committee of the board may also reject the request for a waiver in which case the pupil shall not be allowed to register. Any person aggrieved by a decision of a district board or committee of the board on a request for a waiver under this subsection may appeal such decision to the circuit court in the county where the school district is located.

4. Any person who knowingly submits false information to satisfy any requirement of subsection 2 of this section is guilty of a class A misdemeanor.

5. In addition to any other penalties authorized by law, a district board may file a civil action to recover, from the parent, military guardian or legal guardian of the pupil, the costs of school attendance for any pupil who was enrolled at a school in the district and whose parent,

military guardian or legal guardian filed false information to satisfy any requirement of subsection 2 of this section.

6. Subsection 2 of this section shall not apply to a pupil who is a homeless child or youth, or a pupil attending a school not in the pupil's district of residence as a participant in an interdistrict transfer program established under a court-ordered desegregation program, a pupil who is a ward of the state and has been placed in a residential care facility by state officials, a pupil who has been placed in a residential care facility due to a mental illness or developmental disability, a pupil attending a school pursuant to sections 167.121 and 167.151, a pupil placed in a residential facility by a juvenile court, a pupil with a disability identified under state eligibility criteria if the student is in the district for reasons other than accessing the district's educational program, or a pupil attending a regional or cooperative alternative education program or an alternative education program on a contractual basis.

7. Within two business days of enrolling a pupil, the school official enrolling a pupil, including any special education pupil, shall request those records required by district policy for student transfer and those discipline records required by subsection 9 of section 160.261, RSMo, from all schools previously attended by the pupil within the last twelve months. Any school district that receives a request for such records from another school district enrolling a pupil that had previously attended a school in such district shall respond to such request within five business days of receiving the request. School districts may report or disclose education records to law enforcement and juvenile justice authorities if the disclosure concerns law enforcement's or juvenile justice authorities' ability to effectively serve, prior to adjudication, the student whose records are released. The officials and authorities to whom such information is disclosed must comply with applicable restrictions set forth in 20 U.S.C. Section 1232g (b)(1)(E).

[162.950. RESOLUTION CONFERENCE, REQUESTED HOW — REEVALUATION. — 1. The notification shall contain the information that upon written request to the board of education or to the state department of elementary and secondary education the parent or guardian will be entitled to a resolution conference to review the action advised of in the notice. Such a conference, if requested, shall be held not more than ten days after receipt of the request unless the parent or guardian agrees to a later time. If no request for a resolution conference is made, the assignment or other action shall be made.

2. The notification shall also contain the information that upon written request by the parent or guardian to the board of education or to the state department of elementary and secondary education, whatever the case may be, the board of education or the state department of elementary and secondary education shall cause a reevaluation to be made.]

Approved July 12, 2006

SB 837 [HCS SB 837]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the membership of the board of directors that governs the Missouri Malpractice Joint Underwriting Association

AN ACT to repeal sections 376.961, 379.860, and 383.175, RSMo, and to enact in lieu thereof three new sections relating to insurance board membership.

SECTION

- A. Enacting clause.
- 376.961. Missouri health insurance pool created — members to be all health insurers in state — board of directors, members, terms, qualifications.
- 379.860. Administration of program — governing committee, members, vacancies.
- 383.175. Board of directors, qualifications — terms, expenses, payment of authorized.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 376.961, 379.860, and 383.175, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 376.961, 379.860, and 383.175, to read as follows:

376.961. MISSOURI HEALTH INSURANCE POOL CREATED — MEMBERS TO BE ALL HEALTHINSURERS IN STATE — BOARD OF DIRECTORS, MEMBERS, TERMS, QUALIFICATIONS.

— 1. There is hereby created a nonprofit entity to be known as the "Missouri Health Insurance Pool". All insurers issuing health insurance in this state and insurance arrangements providing health plan benefits in this state [on and after January 1, 1991,] shall be members of the pool.

2. [The director shall give notice to all insurers and insurance arrangements of the time and place for the initial organizational meetings.] **Beginning January 1, 2007**, the board of directors shall [be selected by the pool participants, and shall consist of seven members: one member each from the three largest domestic insurance companies participating in the pool, based on premium income in Missouri; one member each from the two largest domestic health services corporations participating in the pool, based on premium income in Missouri; one member from an independent domestic health maintenance organization participating in the pool; and one member from the general public who is not an insurer, or any officer, director, or employee of an insurer. Two members of the board of directors shall be of minority groups and at least one such member shall be an African-American. The board shall appoint one or more insurers to serve as administrator. Both the selection of the board of directors and the administering insurer shall be subject to approval by the director.

3. If, within sixty days of the organizational meeting, the board of directors is not selected or the administering insurer is not appointed, the director shall appoint the initial board and appoint an administering insurer] **consist of the director of the department of insurance or the director's designee, and eight members appointed by the director. Of the initial eight members appointed, three shall serve a three-year term, three shall serve a two-year term, and two shall serve a one-year term. All subsequent appointments to the board shall be for three-year terms. Members of the board shall have a background and experience in health insurance plans or health maintenance organization plans, in health care finance, or as a health care provider or a member of the general public; except that, the director shall not be required to appoint members from each of the categories listed. The director may reappoint members of the board. The director shall fill vacancies on the board in the same manner as appointments are made at the expiration of a member's term.**

379.860. ADMINISTRATION OF PROGRAM — GOVERNING COMMITTEE, MEMBERS, VACANCIES. — 1. This program shall be administered by a governing committee (hereinafter referred to as "the committee") of the facility, subject to the supervision of the director, and operated by a manager appointed by the committee.

2. The committee shall consist of thirteen members:

(1) Ten members shall be elected from the following:

American Insurance Association, two

[Alliance of American Insurers] **Property Casualty Insurers Association of America**, two

National Association of [Independent Insurers, two] **Mutual Insurance Companies**, one

Missouri Insurance Coalition, one

All other stock insurers, two

All other nonstock insurers, two

(2) Three members shall be appointed by the director from each of the following:

Missouri insurer, one

Licensed agent of an insurer, two

Not more than one insurer in a group under the same management or ownership shall serve on the committee at the same time.

3. In case of a vacancy on the governing committee the director shall appoint a representative to such vacancy pending the designation or election as provided in the program.

[4. A temporary governing committee shall be appointed by the director to serve until an official committee is duly elected and appointed.]

383.175. BOARD OF DIRECTORS, QUALIFICATIONS — TERMS, EXPENSES, PAYMENT OF AUTHORIZED. — The association shall be governed by a board of eight directors, to be appointed by the director for the terms specified in the plan of operation. Two directors shall represent insurers which write bodily injury insurance in Missouri and are members of the [National Association of Independent Insurers] **Property Casualty Insurers Association of America**, two shall represent insurers which write bodily injury insurance in Missouri and are members of the [American Mutual Insurance Alliance] **Missouri Insurance Coalition**, two shall represent insurers which write bodily injury insurance in Missouri and are members of the American Insurance Association, and two shall represent insurers which write bodily injury insurance in Missouri but are not members of any of the foregoing trade associations. The directors shall be reimbursed out of the administrative funds of the association only for necessary and actual expenses incurred for attending meetings of the governing board.

Approved June 9, 2006

SB 840 [HCS SB 840]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the highway and bridge naming process

AN ACT to repeal sections 227.290 and 227.299 RSMo, and to enact in lieu thereof two new sections relating highways and bridges.

SECTION

A. Enacting clause.

227.290. Highways and transportation commission may convey or exchange land or leasehold.

227.299. Memorial bridge or highway designations, procedure — notice requirements — signs to be erected — multiple designations prohibited — time period of designation.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 227.290 and 227.299, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 227.290 and 227.299, to read as follows:

227.290. HIGHWAYS AND TRANSPORTATION COMMISSION MAY CONVEY OR EXCHANGE LAND OR LEASEHOLD. — 1. Whenever in the opinion of the state highways and transportation commission the advantageous use of any interest in land or any leasehold which has heretofore or may hereafter be acquired by the commission has ceased, **or for any other lawful reason the commission wishes to dispose of the property**, the [state highways and transportation] commission shall have authority to convey [the same for the best available cash price] **or exchange such interest in land or leasehold for its approximate fair market value pursuant to any administrative procedure or process as determined by the commission**, by deed signed by its [chairman] **chair** or vice [chairman] **chair** and attested by its secretary[; provided, however, that]. Before any sale shall be consummated under this section, the [grantor to the state of] **original owner of the property which is now** offered for sale[, if real estate,] **by the commission** and if such [grantor] **owner** shall at the time **of sale** be in possession of the adjoining land, shall be notified by written notice [of] **by** the [state transportation] department[.] **of transportation** of such contemplated sale[; provided, that]. All moneys received from the disposal of any such interest in land or leasehold shall be deposited **by the commission** in the state treasury to the credit of the state road fund[; provided further, that when]. Any land or leasehold herein described **that** has been donated without charge [whatsoever,] by the owner [and grantor of said property] to the purpose of state highway construction or maintenance and such [grantor] **owner** is still in possession of contiguous property, the same shall revert to such original owner without cost to [him] **the owner** if and when relinquished by the [state] **commission**.

2. **The commission may also, in its discretion, convey at no cost, or exchange its interest in any land or leasehold that is no longer necessary to be used for the construction, maintenance, or operation of the state highway system, or for any other lawful reason, to any federal, state, or local governmental entity.**

227.299. MEMORIAL BRIDGE OR HIGHWAY DESIGNATIONS, PROCEDURE — NOTICE REQUIREMENTS — SIGNS TO BE ERECTED — MULTIPLE DESIGNATIONS PROHIBITED — TIME PERIOD OF DESIGNATION. — 1. Except as provided in subsection [8] **7** of this section, an organization **or person** that seeks a bridge or highway designation **on the state highway system** to honor an event, place, organization, or person who has been deceased for more than two years shall petition the department of transportation by submitting the following:

(1) An application in a form prescribed by the director, describing the bridge or segment of highway for which designation is sought and the proposed name of the bridge or relevant portion of highway. The application shall include the name of at least one current member of the general assembly who will sponsor the bridge or highway designation. The application may contain written testimony for support of the bridge or highway designation;

(2) [Each application submitted under this section shall be accompanied by] A list of at least one hundred signatures of individuals who support the naming of the bridge or highway; **and**

(3) [A deposit of four hundred dollars per sign proposed to designate the bridge or highway, with the funds to be used for construction of each sign;

(4) A deposit of six hundred dollars per sign proposed, with the funds to be used to maintain each sign; and

(5) **A fee, to be determined by the commission to cover the costs of constructing and maintaining the proposed signs. The fee shall not exceed the cost of constructing and maintaining each sign.**

2. All moneys received by the department of transportation for the construction and maintenance of bridge or highway signs **on the state highway system** shall be deposited in the state treasury to the credit of the ["Department of Transportation Bridge and Highway Sign Fund" which is hereby created. The state treasurer shall be custodian of the fund and shall make disbursements from the fund requested by the Missouri director of the department of

transportation for personal services, expenses, and equipment required to construct and maintain signs erected in accordance with the provisions of this section.

2. At the end of each state fiscal year, the director of the department of transportation shall:

(1) Determine the amount of all moneys deposited into the department of transportation bridge and highway sign fund;

(2) Determine the amount of disbursements from the department of transportation bridge and highway sign fund which were made to construct and maintain the signs; and

(3) Subtract the amount of disbursements from the income figure referred to in subdivision (1) of this subsection and deliver this figure to the state treasurer.

3. The state treasurer shall transfer an amount of money equal to the figure provided by the director of the department of transportation from the department of transportation bridge and highway sign fund to the state highways and transportation department fund. An unexpended balance in the department of transportation bridge and highway sign fund at the end of the biennium not exceeding twenty-five thousand dollars shall be exempt from the provisions of section 33.080, RSMo, relating to transfer of unexpended balances to the general revenue fund.

4.] state road fund.

3. The documents and fees required under this section shall be submitted to the department of transportation [thirty days before any approval or denial by the house and senate committees on transportation during that legislative session] **no later than November 1 prior to the next regular session of the general assembly to be approved or denied by the joint committee on transportation oversight during such legislative session.**

[5.] 4. The department of transportation shall give notice of any proposed bridge or highway designation **on the state highway system** in a manner reasonably calculated to advise the public of such proposal. Reasonable notice shall include posting the proposal for the designation on the department's official public web site, and making available copies of the sign designation application to any representative of the news media or public upon request and posting the application on a bulletin board or other prominent public place which is easily accessible to the public and clearly designated for that purpose at the principal office.

[6.] 5. If the memorial highway designation requested by the organization is not approved by the [house and senate committees] **joint committee on transportation oversight**, ninety-seven percent of the application fee shall be refunded to the requesting organization.

[7.] 6. Two highway signs shall be erected for each bridge and highway designation[, except] **on the state highway system processed under this section.** When a named section of a highway crosses two or more county lines, consideration shall be given by the department of transportation to allow additional signage at the county lines or major intersections.

[8.] 7. Highway or bridge designations **on the state highway system** honoring **fallen** law enforcement officers [or], members of the armed forces killed in the line of duty, **or state employees killed while serving the state** shall not be subject to the provisions of this section.

[9. Upon approval of a bridge or highway designation, the department of transportation shall provide five miniature signs, free of charge, to persons or organizations sponsoring signs under this section.]

8. **No bridge or portion of a highway on the state highway system may be named or designated after more than one event, place, organization, or person. Each event, place, organization, or person shall only be eligible for one bridge or highway designation.**

9. **Any highway signs erected for any bridge or highway designation on the state highway system under the provisions of this section shall be erected and maintained for a twenty-year period. After such period, the signs shall be subject to removal by the department of transportation and the bridge or highway may be designated to honor events, places, organizations, or persons other than the current designee. An existing highway or bridge designation processed under the provisions of this section may be retained for additional twenty-year increments if, at least one year before the designation's**

expiration, an application to the department of transportation is made to retain the designation along with the required documents and all applicable fees required under this section.

10. The provisions of this section shall apply to bridge or highway designations sought after August 28, [2005] **2006**.

Approved July 10, 2006

SB 845 [SB 845]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies fees and reinstatement processes in the event of corporate administrative dissolution

AN ACT to repeal section 351.488, RSMo, and to enact in lieu thereof one new section relating to corporate dissolution due to military service.

SECTION

A. Enacting clause.

351.488. Reinstatement following dissolution — name of reinstated corporation — administrative dissolution, effect of.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 351.488, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 351.488, to read as follows:

351.488. REINSTATEMENT FOLLOWING DISSOLUTION — NAME OF REINSTATED CORPORATION — ADMINISTRATIVE DISSOLUTION, EFFECT OF. — 1. A corporation administratively dissolved pursuant to section 351.486 may apply to the secretary of state for reinstatement. The application must:

(1) Recite the name of the corporation and the effective date of its administrative dissolution;

(2) State that the ground or grounds for dissolution either did not exist or have been eliminated;

(3) State that the corporation's name satisfies the requirements of section 351.110;

(4) Contain a certificate from the department of revenue reciting that all taxes owed by the corporation, including all liabilities owed as determined by the division of employment security pursuant to chapter 288, RSMo, have been paid or that a tax payback plan has been arranged with the department of revenue for liabilities owed to the department of revenue and a tax payback plan has been arranged with the department of labor and industrial relations division of employment security for any liabilities owed as determined by the division of employment security pursuant to chapter 288, RSMo; and

(5) Be accompanied by a reinstatement fee in the amount of fifty dollars plus any delinquent fees, penalties, and charges that might have accrued.

2. If the secretary of state determines that the application contains the information and is accompanied by the fees required by subsection 1 of this section and that the information and fees are correct, the secretary of state shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites his or her determination and the effective date of

reinstatement, file the original of the certificate, and serve a copy on the corporation as provided in section 351.380.

3. When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the corporation resumes carrying on its business as if the administrative dissolution had never occurred.

4. **In the event a corporation was administratively dissolved for failure to file an annual registration report, and the secretary of state determines that such failure was due to military service, as described in section 41.950, RSMo, the secretary of state may waive the requirements of subsection 1 of this section, including waiver of the reinstatement fee described in subdivision (5) of subsection 1 of this section, and shall, as required by subdivision (5) of subsection 1 of section 41.950, RSMo, waive any penalties or charges as provided in subdivision (5) of subsection 1 of section 41.950, RSMo. Upon making the determination that failure to file an annual registration report was due to military service, the secretary of state shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites his or her determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation as provided in section 351.380, RSMo. Nothing in this subsection shall be construed so as to waive the annual registration report fees due for the year or years in which no annual registration report was filed.**

5. In the event the name was reissued prior to the time application for reinstatement was filed, the corporation applying for reinstatement may elect to reinstate using a new name that complies with the requirements of section 351.110, and that has been approved by appropriate action of the corporation for changing the name thereof.

Approved June 21, 2006

SB 863 [SB 863]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the definition of "volunteer fire protection association"

AN ACT to repeal section 320.300, RSMo, and to enact in lieu thereof one new section relating to volunteer fire protection associations.

SECTION

A. Enacting clause.

320.300. Volunteer fire protection association, definition.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 320.300, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 320.300, to read as follows:

320.300. VOLUNTEER FIRE PROTECTION ASSOCIATION, DEFINITION. — As used in sections 320.300 to 320.310, the phrase "volunteer fire protection association" means any fire department, **including a municipal fire department**, which is staffed by volunteers and organized for the purpose of combating fires in a specified area. The provisions of sections 320.300 to 320.310 shall apply only to volunteer fire protection associations either partially or wholly funded by membership or subscriber fees and shall not apply to fire protection districts

supported by local tax revenues, or which have contracted with a political subdivision to respond to fires within the area of an association's boundaries.

Approved June 9, 2006

SB 870 [SCS SB 870]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Transfers responsibility for existing appropriation payments from the Office of Administration to other state agencies

AN ACT to repeal sections 37.200, 37.205, 37.210, 37.215, 37.220, 37.225, 37.230, 57.290, 143.183, 211.393, 221.105, 550.190, 550.200, 550.210, 550.220, 550.230, and 550.260, RSMo, and to enact in lieu thereof seventeen new sections relating to the transfer of existing appropriation payments in the office of administration, with a penalty provision and an emergency clause.

SECTION

- A. Enacting clause.
- 57.290. Charges in criminal cases.
- 143.183. Professional athletes and entertainers, state income tax revenues from nonresidents — transfers to Missouri arts council trust fund, Missouri humanities council trust fund, Missouri state library networking fund, Missouri public television broadcasting corporation special fund and Missouri historic preservation revolving fund.
- 185.200. Legislative findings.
- 185.205. Definitions.
- 185.210. Appropriation of funds for grants to public television stations, requirements, use of funds, amounts for grants, unused funds returned to state.
- 185.215. Limitation on funding percentage.
- 185.220. Application and certification of expenses required.
- 185.225. Annual report and accounting of funds required.
- 185.230. Limitation on amounts appropriated, how determined.
- 211.393. Definitions — compensation of juvenile officers, apportionment — state to reimburse salaries, when — multicounty circuit provisions — local juvenile court budget, amount maintained, when — exclusion from benefits, when.
- 221.105. Boarding of prisoners — amount expended, how fixed, how paid, limit.
- 550.190. Examination and certification of fee bill, by whom.
- 550.200. Original fee bill to director of department of corrections or county commission.
- 550.210. Fee bill, how certified — information required.
- 550.220. Fee bill certified to county commission — penalty.
- 550.230. Subsequent fee bill, when issued.
- 550.260. Copy of court cost bill filed with treasurer — warrants — criminal court cost bills recorded.
- 37.200. Declaration of purpose.
- 37.205. Definition.
- 37.210. Funds may be appropriated for public television.
- 37.215. Amounts authorized.
- 37.220. Application, contents.
- 37.225. Reports, contents.
- 37.230. Maximum appropriation.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 37.200, 37.205, 37.210, 37.215, 37.220, 37.225, 37.230, 57.290, 143.183, 211.393, 221.105, 550.190, 550.200, 550.210, 550.220,

550.230, and 550.260, RSMo, are repealed and seventeen new sections enacted in lieu thereof, to be known as sections 57.290, 143.183, 185.200, 185.205, 185.210, 185.215, 185.220, 185.225, 185.230, 211.393, 221.105, 550.190, 550.200, 550.210, 550.220, 550.230, and 550.260, to read as follows:

57.290. CHARGES IN CRIMINAL CASES. — 1. In cities and counties having a population of three hundred thousand inhabitants and over, each deputy sheriff, not more than two, shall be allowed for each day during the term of court six dollars, to be paid by the city or county of three hundred thousand inhabitants or over.

2. For the services of taking convicted offenders to the reception and diagnostic center designated by the director of the department of corrections, the sheriff, county marshal or other officers shall receive the sum of eight dollars per day for the time actually and necessarily employed in traveling to and from the reception and diagnostic center, and each guard shall receive the sum of six dollars per day for the same, and the sheriff, county marshal or other officer and guard shall receive the mileage rate prescribed by this section for the distance necessarily traveled in going to and returning from the reception and diagnostic center, the time and distance to be estimated by the most usually traveled route from the place of departure to the reception and diagnostic center; the mileage rate prescribed by this section for each mile traveled shall be allowed to the sheriff to cover all expenses on each convicted offender while being taken to the reception and diagnostic center; and all persons convicted and sentenced to imprisonment in the department of corrections at any term or sitting of the court, shall be taken to the reception and diagnostic center at the same time, unless prevented by sickness or unavoidable accident. In cities having a population of two hundred thousand inhabitants or more, convicted offenders shall be taken to the reception and diagnostic center as often as the sheriff deems necessary. When three or more convicted offenders are being taken to the reception and diagnostic center at one time, a guard may be employed, but no guard shall be employed for a less number of convicted offenders except upon the order, entered of record, of the judge of the court in which the conviction was had, and any additional guards employed by order of the judge shall, in no event, exceed one for every three convicted offenders; and before any claim for taking convicted offenders to the reception and diagnostic center is allowed, the sheriff, or other officer conveying such convicted offender, shall file with the state [commissioner of administration] **director of the department of corrections** an itemized statement of such sheriff's account, in which the sheriff shall give the name of each convicted offender conveyed and the name of each guard actually employed, with the number of miles necessarily traveled and the number of days required, which in no case shall exceed three days, and which account shall be signed and sworn to by such officer and accompanied by a certificate from the chief administrative officer or such officer's designee of the reception and diagnostic center, that such convicted offenders have been delivered at the reception and diagnostic center and were accompanied by each of the officers and guards named in the account.

3. The sheriff or other officer who shall take a person, charged with a criminal offense, from the county in which the offender is apprehended to that in which the offense was committed, or who may remove a prisoner from one county to another for any cause authorized by law, or who shall have in custody or under such sheriff's or officer's charge any person undergoing an examination preparatory to such person's commitment more than one day for transporting, safekeeping and maintaining any such person, shall be allowed by the court having cognizance of the offense, three dollars and fifty cents per day for every day such sheriff or officer may have such person under such sheriff's or officer's charge, when the number of days shall exceed one, and the mileage rate prescribed by this section for every mile necessarily traveled in going to and returning from one county to another, and the guard employed, who shall in no event exceed the number allowed the sheriff, marshal or other officer in transporting convicted offenders to the reception and diagnostic center, shall be allowed the same compensation as the officer. Three dollars and fifty cents per day, mileage same as officer, shall

be allowed for board and all other expenses of each prisoner. No compensation shall be allowed under this section for taking the prisoner or prisoners from one place to another in the same county, excepting in counties which have two or more courts with general criminal jurisdiction. In such counties the sheriff shall have the same fees for conveying prisoners from the jail to place of trial as are allowed for conveying prisoners in like cases from one county to another, and the expenses incurred in transporting prisoners from one county to another, occasioned by the insufficiency of the county jail or threatened mob violence, shall be paid by the county in which such case may have originated; provided that the court is held at a place more than five miles from the jail; and no court shall allow the expense of a guard, although it may have actually been incurred, unless from the evidence of disinterested persons it shall be satisfied that a guard was necessary; provided, that when the place of conviction is remote from a railroad, upon which a convicted offender may be transported to the reception and diagnostic center, the court before which such convicted offender is sentenced may, for good cause shown, allow one guard for every two convicted offenders, such guard to receive three dollars a day and the mileage rate prescribed by this section for every mile necessarily traveled in going to and returning from the nearest depot on said railroad to the place where such convicted offender was sentenced.

4. Mileage shall be reimbursed to sheriffs, county marshals and guards for all services rendered pursuant to this section at the rate prescribed by the Internal Revenue Service for allowable expenses for motor vehicle use expressed as an amount per mile.

143.183. PROFESSIONAL ATHLETES AND ENTERTAINERS, STATE INCOME TAX REVENUES FROM NONRESIDENTS — TRANSFERS TO MISSOURI ARTS COUNCIL TRUST FUND, MISSOURI HUMANITIES COUNCIL TRUST FUND, MISSOURI STATE LIBRARY NETWORKING FUND, MISSOURI PUBLIC TELEVISION BROADCASTING CORPORATION SPECIAL FUND AND MISSOURI HISTORIC PRESERVATION REVOLVING FUND. — 1. As used in this section, the following terms mean:

(1) "Nonresident entertainer", a person residing or registered as a corporation outside this state who, for compensation, performs any vocal, instrumental, musical, comedy, dramatic, dance or other performance in this state before a live audience and any other person traveling with and performing services on behalf of a nonresident entertainer, including a nonresident entertainer who is paid compensation for providing entertainment as an independent contractor, a partnership that is paid compensation for entertainment provided by nonresident entertainers, a corporation that is paid compensation for entertainment provided by nonresident entertainers, or any other entity that is paid compensation for entertainment provided by nonresident entertainers;

(2) "Nonresident member of a professional athletic team", a professional athletic team member who resides outside this state, including any active player, any player on the disabled list if such player is in uniform on the day of the game at the site of the game, and any other person traveling with and performing services on behalf of a professional athletic team;

(3) "Personal service income" includes exhibition and regular season salaries and wages, guaranteed payments, strike benefits, deferred payments, severance pay, bonuses, and any other type of compensation paid to the nonresident entertainer or nonresident member of a professional athletic team, but does not include prizes, bonuses or incentive money received from competition in a livestock, equine or rodeo performance, exhibition or show;

(4) "Professional athletic team" includes, but is not limited to, any professional baseball, basketball, football, soccer and hockey team.

2. Any person, venue, or entity who pays compensation to a nonresident entertainer shall deduct and withhold from such compensation as a prepayment of tax an amount equal to two percent of the total compensation if the amount of compensation is in excess of three hundred dollars paid to the nonresident entertainer.

3. Any person, venue, or entity required to deduct and withhold tax pursuant to subsection 2 of this section shall, for each calendar quarter, on or before the last day of the month following the close of such calendar quarter, remit the taxes withheld in such form or return as prescribed

by the director of revenue and pay over to the director of revenue or to a depository designated by the director of revenue the taxes so required to be deducted and withheld.

4. Any person, venue, or entity subject to this section shall be considered an employer for purposes of section 143.191, and shall be subject to all penalties, interest, and additions to tax provided in this chapter for failure to comply with this section.

5. Notwithstanding other provisions of this chapter to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but none after December 31, 2015, shall annually estimate the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of sixteen years, sixty percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri arts council trust fund, and shall be transferred from the general revenue fund to the Missouri arts council trust fund established in section 185.100, RSMo, and any amount transferred shall be in addition to such agency's budget base for each fiscal year. Notwithstanding other provisions of this section, the Missouri arts council shall not be appropriated more than ten million dollars in any fiscal year. The director shall by rule establish the method of determining the portion of personal service income of such persons that is allocable to Missouri.

6. Notwithstanding the provisions of sections 186.050 to 186.067, RSMo, to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but for none after December 31, 2015, shall estimate annually the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of sixteen years, ten percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri humanities council trust fund, and shall be transferred from the general revenue fund to the Missouri humanities council trust fund established in section 186.055, RSMo, and any amount transferred shall be in addition to such agency's budget base for each fiscal year.

7. Notwithstanding other provisions of section 182.812, RSMo, to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but for none after December 31, 2015, shall estimate annually the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of sixteen years, ten percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri state library networking fund, and shall be transferred from the general revenue fund to the secretary of state for distribution to public libraries for acquisition of library materials as established in section 182.812, RSMo, and any amount transferred shall be in addition to such agency's budget base for each fiscal year.

8. Notwithstanding other provisions of section [37.200] **185.200**, RSMo, to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but for none after December 31, 2015, shall estimate annually the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of sixteen years, ten percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri public television broadcasting corporation special fund, and shall be transferred from the general revenue fund to the Missouri public television broadcasting corporation special fund established in section [37.200] **185.200**, RSMo, and any amount transferred shall be in addition to such agency's budget base for each fiscal year; provided,

however, that twenty-five percent of such allocation shall be used for grants to public radio stations which were qualified by the corporation for public broadcasting as of November 1, 1996. Such grants shall be distributed to each of such public radio stations in this state after receipt of the station's certification of operating and programming expenses for the prior fiscal year. Certification shall consist of the most recent fiscal year financial statement submitted by a station to the corporation for public broadcasting. The grants shall be divided into two categories, an annual basic service grant and an operating grant. The basic service grant shall be equal to thirty-five percent of the total amount and shall be divided equally among the public radio stations receiving grants. The remaining amount shall be distributed as an operating grant to the stations on the basis of the proportion that the total operating expenses of the individual station in the prior fiscal year bears to the aggregate total of operating expenses for the same fiscal year for all Missouri public radio stations which are receiving grants.

9. Notwithstanding other provisions of section 253.402, RSMo, to the contrary, the commissioner of administration, for all taxable years beginning on or after January 1, 1999, but for none after December 31, 2015, shall estimate annually the amount of state income tax revenues collected pursuant to this chapter which are received from nonresident members of professional athletic teams and nonresident entertainers. For fiscal year 2000, and for each subsequent fiscal year for a period of sixteen years, ten percent of the annual estimate of taxes generated from the nonresident entertainer and professional athletic team income tax shall be allocated annually to the Missouri department of natural resources Missouri historic preservation revolving fund, and shall be transferred from the general revenue fund to the Missouri department of natural resources Missouri historic preservation revolving fund established in section 253.402, RSMo, and any amount transferred shall be in addition to such agency's budget base for each fiscal year. As authorized pursuant to subsection 2 of section 30.953, RSMo, it is the intention and desire of the general assembly that the state treasurer convey, to the Missouri investment trust on January 1, 1999, up to one hundred percent of the balances of the Missouri arts council trust fund established pursuant to section 185.100, RSMo, and the Missouri humanities council trust fund established pursuant to section 186.055, RSMo. The funds shall be reconveyed to the state treasurer by the investment trust as follows: the Missouri arts council trust fund, no earlier than January 2, 2009; and the Missouri humanities council trust fund, no earlier than January 2, 2009.

185.200. LEGISLATIVE FINDINGS. — The general assembly, giving due consideration to the historical and continuing interest of the people of the state of Missouri in encouraging the educational and cultural enrichment of its residents, finds that public television stations, especially with local programming, contribute significantly to such enrichment, are a valuable state resource, and consequently that support of public television is an important public purpose.

185.205. DEFINITIONS. — As used in sections 185.200 to 185.230, the term "public television station" means a television broadcasting station operating as of January 1, 1980, under authority of section 73.621 of the Federal Communications Commission rules and regulations as a noncommercial educational or public television station, owned and operated by a political subdivision of this state, an educational institution of this state, or by a not-for-profit corporation, accepting or broadcasting no commercial messages, and receiving all or part of its operating revenues from public funds, federal funds, donations or grants, or public subscriptions.

185.210. APPROPRIATION OF FUNDS FOR GRANTS TO PUBLIC TELEVISION STATIONS, REQUIREMENTS, USE OF FUNDS, AMOUNTS FOR GRANTS, UNUSED FUNDS RETURNED TO STATE. — The general assembly may appropriate funds to the state council on the arts for use as grants to public television stations. Such grants shall be distributed to each of the

public television stations in this state after receipt of the station's certification of operating and programming expenses for the prior fiscal year. Certification shall consist of the most recent fiscal year financial statement submitted by a station to the corporation for public broadcasting. At least twenty percent of the state funds received under sections 185.200 to 185.230 by any public television station shall be used for instructional television services to be provided through local agreements. A substantial portion of the state funds received under this or any other act by any public television station shall be used for local programming related to the needs and problems of the community served by the broadcast licensee. The grants shall be divided into two categories, an annual basic service grant and an operating grant. The basic service grant shall be equal to thirty-five percent of the total amount appropriated and shall be divided equally among the public television stations receiving grants. The remaining amount of the appropriation shall be distributed as an operating grant to the stations on the basis of the proportion that the total operating expenses of the individual station in the prior fiscal year bears to the aggregate total of operating expenses for the same fiscal year for all Missouri public television stations receiving state grants. State funds received by a public television station under sections 185.200 to 185.230 and not expended shall be returned to the state of Missouri.

185.215. LIMITATION ON FUNDING PERCENTAGE. — The amount of any state funding provided by sections 185.200 to 185.230 shall not exceed thirty percent of the operating expenditures for the previous year of the public television station receiving said grant.

185.220. APPLICATION AND CERTIFICATION OF EXPENSES REQUIRED. — Eligible public television stations desiring to receive grants under the provisions of sections 185.200 to 185.230 shall make an annual application to the state council on the arts and submit a certification of its actual operating and programming expenses for the previous fiscal year.

185.225. ANNUAL REPORT AND ACCOUNTING OF FUNDS REQUIRED. — Each public television station receiving grants under the provisions of sections 185.200 to 185.230 shall furnish the state council on the arts and the oversight division of the committee on legislative research within sixty days after the end of each fiscal year with an annual report and accounting of the funds received and expended by such stations during the just ended fiscal year and may furnish recommendations and suggestions for improvement in programs and services under the provisions of sections 185.200 to 185.230.

185.230. LIMITATION ON AMOUNTS APPROPRIATED, HOW DETERMINED. — The amount appropriated as grants under the provisions of sections 185.200 to 185.230 shall not be more than the sum of fifty cents multiplied by the total number of residents of the state as determined by the most recent federal decennial census.

211.393. DEFINITIONS — COMPENSATION OF JUVENILE OFFICERS, APPORTIONMENT — STATE TO REIMBURSE SALARIES, WHEN — MULTICOUNTY CIRCUIT PROVISIONS — LOCAL JUVENILE COURT BUDGET, AMOUNT MAINTAINED, WHEN — EXCLUSION FROM BENEFITS, WHEN. — 1. For purposes of this section, the following words and phrases mean:

(1) "County retirement plan", any public employees' defined benefit retirement plan established by law that provides retirement benefits to county or city employees, but not to include the county employees' retirement system as provided in sections 50.1000 to 50.1200, RSMo;

(2) "Juvenile court employee", any person who is employed by a juvenile court in a position normally requiring one thousand hours or more of service per year but not including any service in such a position that was financed in whole or in part by a public or private grant on or after July 1, 1999;

- (3) "Juvenile officer", any juvenile officer appointed pursuant to section 211.351;
- (4) "Multicounty circuit", all other judicial circuits not included in the definition of a single county circuit;
- (5) "Single county circuit", a judicial circuit composed of a single county of the first classification, including the circuit for the city of St. Louis;
- (6) "State retirement plan", the public employees' retirement plan administered by the Missouri state employees' retirement system pursuant to chapter 104, RSMo.

2. Juvenile court employees employed in a single county circuit shall be subject to the following provisions:

- (1) The juvenile officer employed in such circuits on and prior to July 1, 1999, shall:
 - (a) Be state employees on that portion of their salary received from the state pursuant to section 211.381, and in addition be county employees on that portion of their salary provided by the county at a rate determined pursuant to section 50.640, RSMo;
 - (b) Receive state-provided benefits, including retirement benefits from the state retirement plan, on that portion of their salary paid by the state and may participate as members in a county retirement plan on that portion of their salary provided by the county except any juvenile officer whose service as a juvenile court officer is being credited based on all salary received from any source in a county retirement plan on June 30, 1999, shall not be eligible to receive state-provided benefits, including retirement benefits, or any creditable prior service as described in this section but shall continue to participate in such county retirement plan;
 - (c) Receive creditable prior service in the state retirement plan for service rendered as a juvenile court employee, to the extent they have not already received credit for such service in a county retirement plan on salary paid to them for such service, if such service was rendered in a judicial circuit that was not a single county of the first classification;
 - (d) Receive creditable prior service pursuant to paragraph (c) of this subdivision even though they already have received credit for such creditable service in a county retirement plan if they elect to forfeit their creditable service from such plan in which case such plan shall transfer to the state retirement plan an amount equal to the actuarial accrued liability for the forfeited creditable service, determined as if the person were going to continue to be an active member of the county retirement plan, less the amount of any refunds of member contributions;
 - (e) Receive creditable prior service for service rendered as a juvenile court employee in a position that was financed in whole or in part by a public or private grant prior to July 1, 1999, pursuant to the provisions of paragraph (e) of subdivision (1) of subsection 3 of this section;
- (2) Juvenile officers who begin employment for the first time as a juvenile officer in a single county circuit on or after July 1, 1999, shall:
 - (a) Be county employees and receive salary from the county at a rate determined pursuant to section 50.640, RSMo, subject to reimbursement by the state as provided in section 211.381; and
 - (b) Participate as members in the applicable county retirement plan subject to reimbursement by the state for the retirement contribution due on that portion of salary reimbursed by the state;
- (3) All other juvenile court employees who are employed in a single county circuit on or after July 1, 1999:
 - (a) Shall be county employees and receive a salary from the county at a rate determined pursuant to section 50.640, RSMo; and
 - (b) Shall, in accordance with their status as county employees, receive other county-provided benefits including retirement benefits from the applicable county retirement plan if such employees otherwise meet the eligibility requirements for such benefits;
- (4) (a) The state shall reimburse each county comprised of a single county circuit for an amount equal to the greater of:

a. Twenty-five percent of such circuit's total juvenile court personnel budget, excluding the salary for a juvenile officer, for calendar year 1997, and excluding all costs of retirement, health and other fringe benefits; or

b. The sum of the salaries of one chief deputy juvenile officer and one deputy juvenile officer class I, as provided in section 211.381;

(b) The state may reimburse a single county circuit up to fifty percent of such circuit's total calendar year 1997 juvenile court personnel budget, subject to appropriations. The state may reimburse, subject to appropriations, the following percentages of such circuits' total juvenile court personnel budget, expended for calendar year 1997, excluding the salary for a juvenile officer, and excluding all costs of retirement, health and other fringe benefits: thirty percent beginning July 1, 2000, until June 30, 2001; forty percent beginning July 1, 2001, until June 30, 2002; fifty percent beginning July 1, 2002; however, no county shall receive any reimbursement from the state in an amount less than the greater of:

a. Twenty-five percent of the total juvenile court personnel budget of the single county circuit expended for calendar year 1997, excluding fringe benefits; or

b. The sum of the salaries of one chief deputy juvenile officer and one deputy juvenile officer class I, as provided in section 211.381;

(5) Each single county circuit shall file a copy of its initial 1997 and each succeeding year's budget with the office of [administration] **the state courts administrator** after January first each year and prior to reimbursement. The office of [administration] **the state courts administrator** shall make payment for the reimbursement from appropriations made for that purpose on or before July fifteenth of each year following the calendar year in which the expenses were made. The office of [administration] **the state courts administrator** shall submit the information from the budgets relating to full-time juvenile court personnel from each county to the general assembly;

(6) Any single county circuit may apply to the office of the state courts administrator to become subject to subsection 3 of this section, and such application shall be approved subject to appropriation of funds for that purpose;

(7) The state auditor may audit any single county circuit to verify compliance with the requirements of this section, including an audit of the 1997 budget.

3. Juvenile court employees in multicounty circuits shall be subject to the following provisions:

(1) Juvenile court employees including detention personnel hired in 1998 in those multicounty circuits who began actual construction on detention facilities in 1996, employed in a multicounty circuit on or after July 1, 1999, shall:

(a) Be state employees and receive all salary from the state, which shall include any salary as provided in section 211.381 in addition to any salary provided by the applicable county or counties during calendar year 1997 and any general salary increase approved by the state of Missouri for fiscal year 1999 and fiscal year 2000;

(b) Participate in the state retirement plan;

(c) Receive creditable prior service in the state retirement plan for service rendered as a juvenile court employee, to the extent they have not already received credit for such service in a county retirement plan on salary paid to them for such service if such service was rendered in a judicial circuit that was not a single county of the first classification, except that if they forfeited such credit in such county retirement plan prior to being eligible to receive creditable prior service under this paragraph, they may receive creditable service under this paragraph;

(d) Receive creditable prior service pursuant to paragraph (c) of this subdivision even though they already have received credit for such creditable service in a county retirement plan if they elect within six months from the date they become participants in the state retirement plan pursuant to this section to forfeit their service from such plan in which case such plan shall transfer to the state retirement plan an amount equal to the actuarial accrued liability for the

forfeited creditable service, determined as if the person was going to continue to be an active member of the county retirement plan, less the amount of any refunds of member contributions;

(e) Receive creditable prior service for service rendered as a juvenile court employee in a position that was financed in whole or in part by a public or private grant prior to July 1, 1999:

a. Pursuant to paragraph (c) of this subdivision, except that if they already received credit for such creditable service in a county retirement plan, they may not receive creditable prior service pursuant to paragraph (c) of this subdivision unless they elect to forfeit their service from such plan, in which case such plan shall transfer to the state retirement plan an amount equal to the actuarial liability for the forfeited creditable service, determined as if the person was going to continue to be an active member of the county retirement plan, less the amount of any refunds of member contributions;

b. Pursuant to subparagraph a. of this paragraph, if they terminated employment prior to August 28, 2004, and apply to the board of trustees of the state retirement plan to be made and employed as a special consultant and be available to give opinions regarding retirement;

c. Pursuant to subparagraph a. of this paragraph, if they retired prior to August 28, 2004, and apply to the board of trustees of the state retirement plan to be made and employed as a special consultant and be available to give opinions regarding retirement, in which case they shall have their retirement benefits adjusted so they receive retirement benefits equal to the amount they would have received had their retirement benefit been initially calculated to include such creditable prior service;

d. Pursuant to subparagraph a. of this paragraph, if they purchased creditable prior service pursuant to section 104.344, RSMo, or section 105.691, RSMo, based on service as a juvenile court employee in a position that was financed in whole or in part by a public or private grant prior to July 1, 1999, in which case they shall receive a refund based on the amount paid for such purchased service;

(2) Juvenile court employee positions added after December 31, 1997, shall be terminated and not subject to the provisions of subdivision (1) of this subsection, unless the office of the state courts administrator requests and receives an appropriation specifically for such positions;

(3) The salary of any juvenile court employee who becomes a state employee, effective July 1, 1999, shall be limited to the salary provided by the state of Missouri, which shall be set in accordance with guidelines established by the state pursuant to a salary survey conducted by the office of the state courts administrator, but such salary shall in no event be less than the amount specified in paragraph (a) of subdivision (1) of this subsection. Notwithstanding any provision to the contrary in subsection 1 of section 211.394, such employees shall not be entitled to additional compensation paid by a county as a public officer or employee. Such employees shall be considered employees of the judicial branch of state government for all purposes;

(4) All other employees of a multicounty circuit who are not juvenile court employees as defined in subsection 1 of this section shall be county employees subject to the county's own terms and conditions of employment.

4. The receipt of creditable prior service as described in paragraph (c) of subdivision (1) of subsection 2 of this section and paragraph (c) of subdivision (1) of subsection 3 of this section is contingent upon the office of the state courts administrator providing the state retirement plan information, in a form subject to verification and acceptable to the state retirement plan, indicating the dates of service and amount of monthly salary paid to each juvenile court employee for such creditable prior service.

5. No juvenile court employee employed by any single or multicounty circuit shall be eligible to participate in the county employees' retirement system fund pursuant to sections 50.1000 to 50.1200, RSMo.

6. Each county in every circuit in which a juvenile court employee becomes a state employee shall maintain each year in the local juvenile court budget an amount, defined as "maintenance of effort funding", not less than the total amount budgeted for all employees of the juvenile court including any juvenile officer, deputy juvenile officer, or other juvenile court

employees in calendar year 1997, minus the state reimbursements as described in this section received for the calendar year 1997 personnel costs for the salaries of all such juvenile court employees who become state employees. The juvenile court shall provide a proposed budget to the county commission each year. The budget shall contain a separate section specifying all funds to be expended in the juvenile court. Such funding may be used for contractual costs for detention services, guardians ad litem, transportation costs for those circuits without detention facilities to transport children to and from detention and hearings, short-term residential services, indebtedness for juvenile facilities, expanding existing detention facilities or services, continuation of services funded by public grants or subsidy, and enhancing the court's ability to provide prevention, probation, counseling and treatment services. The county commission may review such budget and may appeal the proposed budget to the judicial finance commission pursuant to section 50.640, RSMo.

7. Any person who is employed on or after July 1, 1999, in a position covered by the state retirement plan or the transportation department and highway patrol retirement system and who has rendered service as a juvenile court employee in a judicial circuit that was not a single county of the first classification shall be eligible to receive creditable prior service in such plan or system as provided in subsections 2 and 3 of this section. For purposes of this subsection, the provisions of paragraphs (c) and (d) of subdivision (1) of subsection 2 of this section and paragraphs (c) and (d) of subdivision (1) of subsection 3 of this section that apply to the state retirement plan shall also apply to the transportation department and highway patrol retirement system.

8. (1) Any juvenile officer who is employed as a state employee in a multicounty circuit on or after July 1, 1999, shall not be eligible to participate in the state retirement plan as provided by this section unless such juvenile officer elects to:

(a) Receive retirement benefits from the state retirement plan based on all years of service as a juvenile officer and a final average salary which shall include salary paid by the county and the state; and

(b) Forfeit any county retirement benefits from any county retirement plan based on service rendered as a juvenile officer.

(2) Upon making the election described in this subsection, the county retirement plan shall transfer to the state retirement plan an amount equal to the actuarial accrued liability for the forfeited creditable service determined as if the person was going to continue to be an active member of the county retirement plan, less the amount of any refunds of member contributions.

9. The elections described in this section shall be made on forms developed and made available by the state retirement plan.

221.105. BOARDING OF PRISONERS — AMOUNT EXPENDED, HOW FIXED, HOW PAID, LIMIT. — 1. The governing body of any county and of any city not within a county shall fix the amount to be expended for the cost of incarceration of prisoners confined in jails or medium security institutions. The per diem cost of incarceration of these prisoners chargeable by the law to the state shall be determined, subject to the review and approval of the [office of administration] **department of corrections**.

2. When the final determination of any criminal prosecution shall be such as to render the state liable for costs under existing laws, it shall be the duty of the sheriff to certify to the clerk of the circuit court or court of common pleas in which the case was determined the total number of days any prisoner who was a party in such case remained in the county jail. It shall be the duty of the county commission to supply the cost per diem for county prisons to the clerk of the circuit court on the first day of each year, and thereafter whenever the amount may be changed. It shall then be the duty of the clerk of the court in which the case was determined to include in the bill of cost against the state all fees which are properly chargeable to the state. In any city not within a county it shall be the duty of the superintendent of any facility boarding prisoners to certify to the chief executive officer of such city not within a county the total number of days any prisoner who was a party in such case remained in such facility. It shall be the duty of the

superintendents of such facilities to supply the cost per diem to the chief executive officer on the first day of each year, and thereafter whenever the amount may be changed. It shall be the duty of the chief executive officer to bill the state all fees for boarding such prisoners which are properly chargeable to the state. The chief executive may by notification to the [office of administration] **department of corrections** delegate such responsibility to another duly sworn official of such city not within a county. The clerk of the court of any city not within a county shall not include such fees in the bill of costs chargeable to the state. The [office of administration] **department of corrections** shall revise its criminal cost manual in accordance with this provision.

3. The actual costs chargeable to the state, including those incurred for a prisoner who is incarcerated in the county jail because the prisoner's parole or probation has been revoked or because the prisoner has, or allegedly has, violated any condition of the prisoner's parole or probation, and such parole or probation is a consequence of a violation of a state statute, or the prisoner is a fugitive from the Missouri department of corrections or otherwise held at the request of the Missouri department of corrections regardless of whether or not a warrant has been issued shall be the actual cost of incarceration not to exceed:

- (1) Until July 1, 1996, seventeen dollars per day per prisoner;
- (2) On and after July 1, 1996, twenty dollars per day per prisoner;
- (3) On and after July 1, 1997, up to thirty-seven dollars and fifty cents per day per prisoner, subject to appropriations, but not less than the amount appropriated in the previous fiscal year.

550.190. EXAMINATION AND CERTIFICATION OF FEE BILL, BY WHOM. — The prosecuting attorney shall strictly examine each bill of costs which shall be delivered to him, as provided in section 550.140, for allowance against the state or county, and shall ascertain as far as possible whether the services have been rendered for which the charges are made, and whether the fees charged are expressly given by law for such services, or whether greater charges are made than the law authorizes. If the fee bill has been made out according to law, or if not, after correcting all errors therein, he shall report the same to the judge of the court, either in term or in vacation, and if the same appears to be formal and correct, the judge and prosecuting attorney shall certify to the [commissioner of administration] **director of the department of corrections**, or clerk of the county commission, accordingly as the state or county is liable, the amount of costs due by the state or county on the fee bill, and deliver the same to the clerk who made it out, to be collected without delay, and paid over to those entitled to the fees allowed.

550.200. ORIGINAL FEE BILL TO DIRECTOR OF DEPARTMENT OF CORRECTIONS OR COUNTY COMMISSION. — The original fee bill, signed by the judge and prosecuting attorney, shall be sent by the clerk to the [commissioner of administration] **director of the department of corrections** or county commission, as the case may be, and the clerk shall make out, under his hand and seal, a true and certified copy of the same, which shall be carefully preserved by the clerk in his office, and shall be prima facie evidence of the facts therein stated.

550.210. FEE BILL, HOW CERTIFIED — INFORMATION REQUIRED. — When a fee bill shall be certified to the [commissioner of administration] **director of the department of corrections** for payment, the certificate of the judge and prosecuting attorney shall contain a statement of the following facts: That they have strictly examined the bill of costs; that the defendant was convicted or acquitted, and if convicted, the nature and extent of punishment assessed, or the cause continued generally, as the case may be; that the offense charged is a capital one, or punishable solely by imprisonment in the penitentiary, as the case may be; that the services were rendered for which charges are made, and that the fees charged are expressly authorized by law, and that they are properly taxed against the proper party, and that the fees of no more than three witnesses to prove any one fact are allowed. In cases in which the defendant is convicted, the judge and prosecuting attorney shall certify, in addition to the foregoing facts,

that the defendant is insolvent, and that no costs charged in the fee bill, fees for the cost of incarceration, including a reasonable sum to cover occupancy costs, excepted, were incurred on the part of the defendant.

550.220. FEE BILL CERTIFIED TO COUNTY COMMISSION — PENALTY. — Each and every bill of costs presented to any county commission for allowance shall be examined and certified to by the judge and prosecuting attorney in the same manner, all necessary charges excepted, as provided for certifying bills of costs to the [commissioner of administration] **director of the department of corrections** for payment; and any county commissioner who shall pay, or vote to pay, any costs incurred in any criminal case or proceeding, unless the same is so certified to, shall be adjudged guilty of a misdemeanor.

550.230. SUBSEQUENT FEE BILL, WHEN ISSUED. — When the clerk shall send a bill of costs to the [commissioner of administration] **director of the department of corrections** or county commission, as provided in section 550.200, he shall expressly state in his certificate that he has not at any previous time certified or sent a copy of the same bill, or part thereof, for payment; provided, that if the clerk shall, by oversight or mistake, fail to include any costs properly chargeable against the state or county in any fee bill, he may make out and present, as herein provided for making out bills of costs, a supplemental bill for the costs so omitted; provided, that the clerk shall in no case charge or receive any fee or fees whatsoever for the issuance of such supplemental fee bill.

550.260. COPY OF COURT COST BILL FILED WITH TREASURER — WARRANTS — CRIMINAL COURT COST BILLS RECORDED. — 1. All criminal court cost bills shall be certified for payment as herein provided, and in addition thereto the circuit clerks of each county shall make copies of all original criminal court cost bills certified to the [commissioner of administration] **director of the department of corrections** for payment, and shall file the same with the treasurers of their respective counties, and the city of St. Louis, at the time of transmitting the original for payment.

2. When criminal court cost bills are certified to the [commissioner of administration] **director of the department of corrections**, warrants shall be drawn on the state treasurer as provided by law, provided that the amounts due to the state contained within such criminal court cost bills may be withheld by the state before payment is made to the counties. Costs payable to the state contained in such criminal costs bills shall not be reimbursed to the counties, but the county shall be reimbursed only for those costs payable to the county. Payment shall be transmitted to the treasurer of the county from whence the bill originated, or the city of St. Louis. When any criminal cost bill shall be certified to the county commission or the comptroller of the city of St. Louis, for payment, the county clerk, or the comptroller of the city of St. Louis, when the same is allowed, shall draw a warrant on the county treasurer or city treasurer in payment thereof, and deliver the same to the county treasurer, or to the treasurer of the city of St. Louis, together with a list of the names of the various parties to whom the fees are due, stating the amount due each person.

3. The treasurers, on receipt of any such warrants and criminal court cost bills, shall record the criminal court cost bills in a well-bound book arranged with appropriate headings, so that the same shall correspond, as near as may be, with the accounts required to be kept by other officers in section 50.470, RSMo.

[37.200. DECLARATION OF PURPOSE. — The general assembly, giving due consideration to the historical and continuing interest of the people of the state of Missouri in encouraging the educational and cultural enrichment of its residents, finds that public television stations, especially with local programming, contribute significantly to such enrichment, are a valuable state resource, and consequently that support of public television is an important public purpose.]

[37.205. DEFINITION. — As used in sections 37.200 to 37.230, the term "public television station" means a television broadcasting station operating as of January 1, 1980, under authority of section 73.621 of the Federal Communications Commission rules and regulations as a noncommercial educational or public television station, owned and operated by a political subdivision of this state, an educational institution of this state, or by a not-for-profit corporation, accepting or broadcasting no commercial messages, and receiving all or part of its operating revenues from public funds, federal funds, donations or grants, or public subscriptions.]

[37.210. FUNDS MAY BE APPROPRIATED FOR PUBLIC TELEVISION. — The general assembly may appropriate funds to the commissioner of administration for use as grants to public television stations. Such grants shall be distributed to each of the public television stations in this state after receipt of the station's certification of operating and programming expenses for the prior fiscal year. Certification shall consist of the most recent fiscal year financial statement submitted by a station to the corporation for public broadcasting. At least twenty percent of the state funds received under sections 37.200 to 37.230 by any public television station shall be used for instructional television services to be provided through local agreements. A substantial portion of the state funds received under this or any other act by any public television station shall be used for local programming related to the needs and problems of the community served by the broadcast licensee. The grants shall be divided into two categories, an annual basic service grant and an operating grant. The basic service grant shall be equal to thirty-five percent of the total amount appropriated and shall be divided equally among the public television stations receiving grants. The remaining amount of the appropriation shall be distributed as an operating grant to the stations on the basis of the proportion that the total operating expenses of the individual station in the prior fiscal year bears to the aggregate total of operating expenses for the same fiscal year for all Missouri public television stations receiving state grants. State funds received by a public television station under sections 37.200 to 37.230 and not expended shall be returned to the state of Missouri.]

[37.215. AMOUNTS AUTHORIZED. — The amount of any state funding provided by sections 37.200 to 37.230 shall not exceed thirty percent of the operating expenditures for the previous year of the public television station receiving said grant.]

[37.220. APPLICATION, CONTENTS. — Eligible public television stations desiring to receive grants under the provisions of section 37.200 to 37.230 shall make an annual application to the commissioner of administration and submit a certification of its actual operating and programming expenses for the previous fiscal year.]

[37.225. REPORTS, CONTENTS. — Each public television station receiving grants under the provisions of sections 37.200 to 37.230 shall furnish the commissioner of administration and the oversight division of the committee on legislative research within sixty days after the end of each fiscal year with an annual report and accounting of the funds received and expended by such stations during the just ended fiscal year and may furnish recommendations and suggestions for improvement in programs and services under the provisions of sections 37.200 to 37.230.]

[37.230. MAXIMUM APPROPRIATION. — The amount appropriated as grants under the provisions of section 37.200 to 37.230 shall not be more than the sum of fifty cents multiplied by the total number of residents of the state as determined by the most recent federal decennial census.]

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure the effective transfer of state services, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an

emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect on July 1, 2006, or upon its passage and approval, whichever later occurs.

Approved June 21, 2006

SB 871 [SB 871]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions regarding distribution payments in the St. Louis retirement system

AN ACT to repeal sections 86.252, 86.253, and 86.255, RSMo, and to enact in lieu thereof four new sections relating to police retirement.

SECTION

- A. Enacting clause.
- 86.252. Distribution of interest of member, when — distribution periods before January 1, 2003 — distributions on and after January 1, 2003.
- 86.253. Service retirement allowance, how calculated — military service credit — contributions refund, when — retiree, surviving spouses, special consultants, when, benefits reduced, when.
- 86.255. Eligible rollover distribution payable, election to pay directly to plan — definitions — written explanation required by board, when — distribution made, when — prohibition on eligible rollover distributions to certain members, exception.
- 86.359. Retroactive payments to be lump sum with interest, rate.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 86.252, 86.253, and 86.255, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 86.252, 86.253, 86.255, and 86.359, to read as follows:

86.252. DISTRIBUTION OF INTEREST OF MEMBER, WHEN — DISTRIBUTION PERIODS BEFORE JANUARY 1, 2003 — DISTRIBUTIONS ON AND AFTER JANUARY 1, 2003. — **1.** Notwithstanding any provision of sections 86.200 to 86.366, to the contrary, the entire interest of a member shall be distributed or begin to be distributed no later than the member's required beginning date. The general required beginning date of a member's benefit is April first of the calendar year following the calendar year in which the member attains age seventy and one-half years or, if later, in which the member terminates employment as a police officer and actually retires.

2. All distributions required pursuant to this section **prior to January 1, 2003**, shall be determined and made in accordance with the income tax regulations under Section 401(a)(9) of the Internal Revenue Code **in effect prior to January 1, 2003**, including the minimum distribution incidental benefit requirement of Section 1.401(a)(9)-2 of the income tax regulations. As of the first distribution year, distributions, if not made in a single sum, may only be made over one of the following periods, or a combination thereof:

- (1) The life of the member;
 - (2) The life of the member and a designated beneficiary;
 - (3) A period certain not extending beyond the life expectancy of the member; or
 - (4) A period certain not extending beyond the joint and last survivor expectancy of the member and a designated beneficiary.
-

3. (1) This subsection shall apply for purposes of determining required minimum distributions for calendar years beginning on and after January 1, 2003, and shall take precedence over any inconsistent provisions of section 86.200 to 86.366. All distributions required under this subsection shall be determined and made in accordance with the United States Treasury regulations under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended.

(2) (a) The member's entire interest shall be distributed or begin to be distributed to the member no later than the member's required beginning date.

(b) If the member dies before distributions begin, the member's entire interest shall be distributed or begin to be distributed no later than as follows:

a. If the member's surviving spouse is the member's sole designated beneficiary, distributions to the surviving spouse shall begin by December thirty-first of the calendar year immediately following the calendar year in which the member died, or by December thirty-first of the calendar year in which the member would have attained age seventy and one-half years, if later;

b. If the member's surviving spouse is not the member's sole designated beneficiary, distributions to the designated beneficiary shall begin by December thirty-first of the calendar year immediately following the calendar year in which the member died;

c. If there is no designated beneficiary as of September thirtieth of the calendar year following the calendar year of the member's death, the member's entire interest shall be distributed by December thirty-first of the calendar year containing the fifth anniversary of the member's death;

d. If the member's surviving spouse is the member's sole designated beneficiary and the surviving spouse dies after the member but before distribution to the surviving spouse begins, this paragraph, except for subparagraph a. of this paragraph, shall apply as if the surviving spouse were the member.

For purposes of this paragraph and subdivision (5) of this subsection, distributions shall be considered to begin on the member's required beginning date, or if subparagraph d. of this paragraph applies, the date distributions are required to begin to the surviving spouse under subparagraph a. of this paragraph. If annuity payments irrevocably commence to the member before the member's required beginning date, or to the member's surviving spouse before the date of distributions are required to begin to the surviving spouse under subparagraph a. of this paragraph, the date of distributions shall be considered to begin the date distributions actually commence.

(c) Unless the member's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions shall be made in accordance with subdivisions (3), (4), and (5) of this subsection. If the member's interest is distributed in the form of an annuity purchased from an insurance company, distributions shall be made in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, and the United States Treasury regulations.

(3) (a) If the member's interest is paid in the form of annuity distributions under sections 86.200 to 86.366, payments under the annuity shall satisfy the following requirements:

a. The annuity distributions shall be paid in periodic payments made at intervals not longer than one year;

b. The distribution period shall be over a life or lives, or over a period certain not longer than the period described in subdivision (4) or (5) of this subsection;

c. Once payments have begun over a period certain, the period certain shall not be changed even if the period certain is shorter than the maximum permitted;

d. Payments shall either be nonincreasing or increase only as follows:

(i) By an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the federal Bureau of Labor Statistics;

(ii) To the extent of the reduction in the amount of the member's payments to provide for a surviving benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in subdivision (4) of this subsection dies or is no longer the member's beneficiary under a qualified domestic relations order with the meaning of Section 414(p) of the Internal Revenue Code of 1986, as amended;

(iii) To provide cash refunds of employee contributions upon the member's death;

or

(iv) To pay increased benefits that result from a revision of sections 86.200 to 86.366.

(b) The amount distributed on or before the member's required beginning date, or if the member dies before distribution begins, the date distributions are required to begin under subparagraph a. or b. of paragraph (b) of subdivision (2) of this subsection, shall be the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if the payment interval ends in the next calendar year. "Payment intervals" means the periods for which payments are received, such as bi-monthly, monthly, semi-annually, or annually. All of the member's benefit accruals as of the last day of the first distribution calendar year shall be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the member's required beginning date.

(c) Any additional benefits accruing to the member in a calendar year after the first distribution calendar year shall be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(4) (a) If the member's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the member and a nonspouse beneficiary, annuity payments to be made on or after the member's required beginning date to the designated beneficiary after the member's death shall not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the member using the table set forth in Q&A-2 of Section 1.401(a)(9)-6T of the United States Treasury regulations.

(b) The period certain for an annuity distribution commencing during the member's lifetime shall not exceed the applicable distribution period for the member under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the United States Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the member reaches age seventy, the applicable distribution period for the member shall be the distribution period for age seventy under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the United States Treasury regulations plus the excess of seventy over the age of the member as of the member's birthday in the year that contained the annuity starting date.

(5) (a) If the member dies before the date distribution of his or her interest begins and there is a designated beneficiary, the member's entire interest shall be distributed, beginning no later than the time described in subparagraph a. or b. of paragraph (b) of subdivision (2) of this subsection, over the life of the designated beneficiary or over a period certain not exceeding:

a. Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the member's death; or

b. If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.

(b) If the member dies before the date distributions begin and there is no designated beneficiary as of September thirtieth of the calendar year following the calendar year of the member's death, distribution of the member's entire interest shall be completed by December thirty-first of the calendar year containing the fifth anniversary of the member's death.

(c) If the member dies before the date distribution of his or her interest begins, the member's surviving spouse is the member's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this subdivision shall apply as if the surviving spouse were the member; except that, the time by which distributions shall begin shall be determined without regard to subparagraph a. of paragraph (b) of subdivision (2) of this subsection.

(6) As used in this subsection, the following terms mean:

(a) "Designated beneficiary", the surviving spouse or the individual who is designated as the beneficiary under subdivision (4) of section 86.200 or any individual who is entitled to receive death benefits under section 86.283 or 86.287 and is the designated beneficiary under Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, and Section 1.401(a)(9)-1, Q&A-4 of the United States Treasury regulations;

(b) "Distribution calendar year", a calendar year for which a minimum distribution is required. For distributions beginning before the member's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the member's required beginning date. For distributions beginning after the member's death, the first distribution calendar year is the calendar year in which distributions are required to begin under paragraph (b) of subdivision (2) of this subsection;

(c) "Life expectancy", life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the United States Treasury regulations;

(d) "Required beginning date", April first of the calendar year following the calendar year in which the member attains age seventy and one-half years or, if later, in which the member terminates employment as a police officer and actually retires.

(7) Notwithstanding any provision in this subsection to the contrary:

(a) A distribution for calendar years 2003, 2004, and 2005 shall not fail to satisfy Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, merely because the payments do not satisfy Section 1.401(a)(9)-1, Q&A-1 to Q&A-16 of the United States Treasury regulations, provided the payments satisfy Section 401(a)(9) of the Internal Revenue Code of 1986, as amended; and

(b) In the case of an annuity distribution option provided under the terms of sections 86.200 to 86.366 shall not fail to satisfy Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, merely because the annuity payments do not satisfy the requirements of Section 1.401(a)(9)-1, Q&A-1 to Q&A-15 of the United States Treasury regulations, provided the distribution option satisfies Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, based on a reasonable and good faith interpretation of the provisions of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended.

86.253. SERVICE RETIREMENT ALLOWANCE, HOW CALCULATED — MILITARY SERVICE CREDIT — CONTRIBUTIONS REFUND, WHEN — RETIREE, SURVIVING SPOUSES, SPECIAL CONSULTANTS, WHEN, BENEFITS REDUCED, WHEN. — 1. Upon termination of employment as a police officer and actual retirement for service, a member shall receive a service retirement allowance which shall be an amount equal to two percent of the member's average final compensation multiplied by the number of years of the member's creditable service, up to twenty-five years, plus an amount equal to four percent of the member's average final compensation for

each year of creditable service in excess of twenty-five years but not in excess of thirty years; plus an additional five percent of the member's average final compensation for any creditable service in excess of thirty years. Notwithstanding the foregoing, the service retirement allowance of a member who does not earn any creditable service after August 11, 1999, shall not exceed an amount equal to seventy percent of the member's average final compensation, and the service retirement allowance of a member who earns creditable service on or after August 12, 1999, shall not exceed an amount equal to seventy-five percent of the member's average final compensation; provided, however, that the service retirement allowance of a member who is participating in the DROP pursuant to section 86.251 on August 12, 1999, who returns to active participation in the system pursuant to section 86.251, and who terminates employment as a police officer and actually retires for reasons other than death or disability before earning at least two years of creditable service after such return shall be the sum of (1) the member's service retirement allowance as of the date the member entered DROP and (2) an additional service retirement allowance based solely on the creditable service earned by the member following the member's return to active participation. The member's total years of creditable service shall be taken into account for the purpose of determining whether the additional allowance attributable to such additional creditable service is two percent, four percent or five percent of the member's average final compensation.

2. If, at any time since first becoming a member of the retirement system, the member has served in the armed forces of the United States, and has subsequently been reinstated as a policeman within ninety days after the member's discharge, the member shall be granted credit for such service as if the member's service in the police department of such city had not been interrupted by the member's induction into the armed forces of the United States. If earnable compensation is needed for such period in computation of benefits it shall be calculated on the basis of the compensation payable to the officers of the member's rank during the period of the member's absence. Notwithstanding any provision of sections 86.200 to 86.366 to the contrary, the retirement system governed by sections 86.200 to 86.366 shall be operated and administered in accordance with the applicable provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended.

3. The service retirement allowance of each present and future retired member who terminated employment as a police officer and actually retired from service after attaining age fifty-five or after completing twenty years of creditable service shall be increased annually at a rate not to exceed three percent as approved by the board of trustees beginning with the first increase in the second October following the member's retirement and subsequent increases in each October thereafter, provided that each increase is subject to a determination by the board of trustees that the consumer price index (United States City Average Index) as published by the United States Department of Labor shows an increase of not less than the approved rate during the latest twelve-month period for which the index is available at the date of determination; and provided further, that if the increase is in excess of the approved rate for any year, such excess shall be accumulated as to any retired member and increases may be granted in subsequent years subject to a maximum of three percent for each full year from October following the member's retirement but not to exceed a total percentage increase of thirty percent. In no event shall the increase described under this subsection be applied to the amount, if any, paid to a member or surviving spouse of a deceased member for services as a special consultant under subsection 5 of this section or, if applicable, subsection 6 of this section. If the board of trustees determines that the index has decreased for any year, the benefits of any retired member that have been increased shall be decreased but not below the member's initial benefit. No annual increase shall be made of less than one percent and no decrease of less than three percent except that any decrease may be limited in amount by the initial benefit.

4. In addition to any other retirement allowance payable under this section and section 86.250, a member, upon termination of employment as police officer and actual service retirement, [shall be repaid] **may request payment of** the total amount of the member's

mandatory contributions to the retirement system without interest. **Upon receipt of such request**, the board shall pay the retired member such total amount of the member's mandatory contributions to the retirement system to be paid pursuant to this subsection within sixty days after such retired member's date of termination of employment as a police officer and actual retirement.

5. Any person who is receiving retirement benefits from the retirement system, upon application to the board of trustees, shall be made, constituted, appointed and employed by the board of trustees as a special consultant on the problems of retirement, aging and other matters, for the remainder of the person's life or, in the case of a deceased member's surviving spouse, until the earlier of the person's death or remarriage, and upon request of the board of trustees shall give opinions and be available to give opinions in writing or orally, in response to such requests, as may be required. For such services the special consultant shall be compensated monthly, in an amount which, when added to any monthly retirement benefits being received from the retirement system, including any cost-of-living increases under subsection 3 of this section, shall total six hundred fifty dollars a month. This employment shall in no way affect any person's eligibility for retirement benefits under this chapter, or in any way have the effect of reducing retirement benefits, notwithstanding any provisions of law to the contrary.

86.255. ELIGIBLE ROLLOVER DISTRIBUTION PAYABLE, ELECTION TO PAY DIRECTLY TO PLAN — DEFINITIONS — WRITTEN EXPLANATION REQUIRED BY BOARD, WHEN — DISTRIBUTION MADE, WHEN — PROHIBITION ON ELIGIBLE ROLLOVER DISTRIBUTIONS TO CERTAIN MEMBERS, EXCEPTION. — 1. Notwithstanding any other provision of the plan established in sections 86.200 to 86.366, if an eligible rollover distribution becomes payable to a distributee, the distributee may elect, at the time and in the manner prescribed by the board of trustees, to have any of the eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

2. For purposes of this section, the following terms mean:

(1) "Direct rollover", a payment by the board of trustees from the fund to the eligible retirement plan specified by the distributee;

(2) "Distributee", a member, a surviving spouse or a spouse;

(3) "Eligible retirement plan", an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, or a qualified trust described in Section 401(a) of the Internal Revenue Code that accepts the distributee's eligible rollover distribution or, effective for eligible rollover distributions made on or after January 1, 2002, an annuity contract described in Section 403(b) of the Internal Revenue Code or an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan, and shall include, for eligible rollover distributions made on or after January 1, 2002, a distribution to a surviving spouse or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code;

(4) "Eligible rollover distribution", any distribution of all or any portion of a member's benefit, other than:

(a) A distribution that is one of a series of substantially equal periodic payments, made not less frequently than annually, for the life or life expectancy of the distributee or for the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more;

(b) The portion of a distribution that is required under Section 401(a)(9) of the Internal Revenue Code; or

(c) Effective for distributions made on or after January 1, 2002, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax

employee contributions which are not includable in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Internal Revenue Code that agrees to separately account for amounts so transferred, including to separately account for the portion of such distribution which is includable in gross income and the portion that is not so includable.

3. The board of trustees shall, at least thirty days, but not more than ninety days, before making an eligible rollover distribution, provide a written explanation to the distributee in accordance with the requirements of Section 402(f) of the Internal Revenue Code.

4. If the eligible rollover distribution is not subject to Sections 401(a) and 417 of the Internal Revenue Code, such eligible rollover distribution may be made less than thirty days after the distributee has received the notice described in subsection 3 of this section, provided that:

(1) The board of trustees clearly informs the distributee of the distributee's right to consider whether to elect a direct rollover, and if applicable, a particular distribution option, for at least thirty days after the distributee receives the notice; and

(2) The distributee, after receiving the notice, affirmatively elects a distribution.

5. Notwithstanding any provision of sections 86.200 to 86.366 to the contrary, in no event shall the trustees pay an eligible rollover distribution in the amount of five thousand dollars or less to a member or retired member who has not attained age sixty-two unless such member or retired member consents in writing either to receive such distribution in cash or to have such distribution directly rolled over in accordance with the provisions of this section.

86.359. RETROACTIVE PAYMENTS TO BE LUMP SUM WITH INTEREST, RATE. — If a retroactive payment is made to a member, surviving spouse, dependent child, or other beneficiary under sections 86.200 to 86.366 for any reason, a lump sum equal to the sum of the retroactive monthly payments, plus interest, shall be paid. For this purpose, interest shall be credited at the rate of six percent annum, compounded annually.

Approved June 29, 2006

SB 872 [HCS SS SCS SBs 872, 754 & 669]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Enacts various provisions relating to the safe operation of motor vehicles to ensure the safety of highway workers, emergency workers and other motorists

AN ACT to repeal sections 210.104, 210.106, 210.107, 302.302, 304.022, 304.070, 304.351, 304.580, 307.178, 565.024, 565.060, 577.020, and 577.021, RSMo, and to enact in lieu thereof fourteen new sections relating to the safe operation of motor vehicles to ensure the safety of highway workers, emergency workers, children, and other motorists, with penalty provisions and an effective date for a certain section.

SECTION

- A. Enacting clause.
- 210.106. Failure to use passenger restraint system not to be basis for civil actions — evidence inadmissible.
- 302.302. Point system — assessment for violation — assessment of points stayed, when, procedure.
- 304.022. Emergency vehicle defined — use of lights and sirens — right-of-way — stationary vehicles, procedure — penalty.
- 304.070. Violation of section 304.050, penalty.
- 304.351. Right-of-way at intersection — signs at intersections — violation, penalty — additional penalties — definitions — order of suspension, contents, appeal.

- 304.580. Definitions.
- 304.582. Fines for moving violations — fines for violations in work or construction zones — signs required for assessing fines — penalty for passing in work or construction zones — not applicable to court costs.
- 304.585. Endangerment of a highway worker defined — fine, points assessed — aggravated endangerment of a highway worker, fine, points assessed — offense not applicable in absence of workers in zone — no citation or conviction, when.
- 307.178. Seat belts required for passenger cars — passenger cars defined — exceptions — failure to comply, effect on evidence and damages — penalty — passengers in car exceeding number of seat belts not violation for failure to use.
- 307.182. Definitions — transporting children under sixteen years of age, restraint systems — penalty — exceptions — program of public information.
- 565.024. Involuntary manslaughter, penalty.
- 565.060. Assault, second degree, penalty.
- 577.020. Citation of law — chemical tests for alcohol content of blood — consent implied, when — administered, when, how — information available to person tested, contents — videotaping of chemical or field sobriety test admissible evidence.
- 577.021. Chemical testing authorized — reasonable efforts to test required — admissibility — severability clause.
- 210.104. Passenger restraint system required for child under four years of age — exceptions — violation, fine.
- 210.107. Standards to be established by department of public safety — rules, procedure.
- B. Effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 210.104, 210.106, 210.107, 302.302, 304.022, 304.070, 304.351, 304.580, 307.178, 565.024, 565.060, 577.020, and 577.021, RSMo, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 210.106, 302.302, 304.022, 304.070, 304.351, 304.580, 304.582, 304.585, 307.178, 307.182, 565.024, 565.060, 577.020, and 577.021, to read as follows:

210.106. FAILURE TO USE PASSENGER RESTRAINT SYSTEM NOT TO BE BASIS FOR CIVIL ACTIONS — EVIDENCE INADMISSIBLE. — In no event shall failure to employ a child passenger restraint system required by section [210.104] **307.182, RSMo**, provide the basis for a claim of civil liability or negligence or contributory negligence of any person in any action for damages by reason of injury sustained by a child; nor shall such failure to employ such child passenger restraint system be admissible as evidence in the trial of any civil action.

302.302. POINT SYSTEM — ASSESSMENT FOR VIOLATION — ASSESSMENT OF POINTS STAYED, WHEN, PROCEDURE. — 1. The director of revenue shall put into effect a point system for the suspension and revocation of licenses. Points shall be assessed only after a conviction or forfeiture of collateral. The initial point value is as follows:

- (1) Any moving violation of a state law or county or municipal or federal traffic ordinance or regulation not listed in this section, other than a violation of vehicle equipment provisions or a court-ordered supervision as provided in section 302.303. 2 points
(except any violation of municipal stop sign ordinance where no accident is involved. 1 point)
- (2) Speeding
In violation of a state law. 3 points
In violation of a county or municipal ordinance. 2 points
- (3) Leaving the scene of an accident in violation of section 577.060, RSMo 12 points
In violation of any county or municipal ordinance 6 points
- (4) Careless and imprudent driving in violation of subsection 4 of section 304.016, RSMo 4 points
In violation of a county or municipal ordinance 2 points
- (5) Operating without a valid license in violation of

subdivision (1) or (2) of subsection 1 of section 302.020:

- (a) For the first conviction 2 points
- (b) For the second conviction 4 points
- (c) For the third conviction 6 points
- (6) Operating with a suspended or revoked license prior to
restoration of operating privileges 12 points
- (7) Obtaining a license by misrepresentation 12 points
- (8) For the first conviction of driving while in an intoxicated
condition or under the influence of controlled substances or drugs 8 points
- (9) For the second or subsequent conviction of any of the
following offenses however combined: driving while in an intoxicated
condition, driving under the influence of controlled substances or drugs
or driving with a blood alcohol content of eight-hundredths of one percent
or more by weight 12 points
- (10). For the first conviction for driving with blood alcohol content
eight-hundredths of one percent or more by weight
In violation of state law 8 points
- In violation of a county or municipal ordinance or federal law or regulation . . . 8 points
- (11). Any felony involving the use of a motor vehicle
12 points
- (12). Knowingly permitting unlicensed operator to operate a motor vehicle
4 points
- (13). For a conviction for failure to maintain financial responsibility
pursuant to county or municipal ordinance or pursuant to section
303.025, RSMo 4 points
- (14). Endangerment of a highway worker in violation of section
304.585, RSMo 4 points**
- (15). Aggravated endangerment of a highway worker in violation
of section 304.585, RSMo 12 points**

2. The director shall, as provided in subdivision (5) of subsection 1 of this section, assess an operator points for a conviction pursuant to subdivision (1) or (2) of subsection 1 of section 302.020, when the director issues such operator a license or permit pursuant to the provisions of sections 302.010 to 302.340.

3. An additional two points shall be assessed when personal injury or property damage results from any violation listed in **subdivisions (1) to (13) of subsection 1 of this section** and if found to be warranted and certified by the reporting court.

4. When any of the acts listed in subdivision (2), (3), (4) or (8) of subsection 1 of this section constitutes both a violation of a state law and a violation of a county or municipal ordinance, points may be assessed for either violation but not for both. Notwithstanding that an offense arising out of the same occurrence could be construed to be a violation of subdivisions (8), (9) and (10) of subsection 1 of this section, no person shall be tried or convicted for more than one offense pursuant to subdivisions (8), (9) and (10) of subsection 1 of this section for offenses arising out of the same occurrence.

5. The director of revenue shall put into effect a system for staying the assessment of points against an operator. The system shall provide that the satisfactory completion of a driver-improvement program or, in the case of violations committed while operating a motorcycle, a motorcycle-rider training course approved by the [director of the department of public safety] **state highways and transportation commission**, by an operator, when so ordered and verified by any court having jurisdiction over any law of this state or county or municipal ordinance, regulating motor vehicles, other than a violation committed in a commercial motor vehicle as defined in section 302.700 or a violation committed by an individual who has been issued a

commercial driver's license or is required to obtain a commercial driver's license in this state or any other state, shall be accepted by the director in lieu of the assessment of points for a violation pursuant to subdivision (1), (2) or (4) of subsection 1 of this section or pursuant to subsection 3 of this section. For the purposes of this subsection, the driver-improvement program shall meet or exceed the standards of the National Safety Council's eight-hour "Defensive Driving Course" or, in the case of a violation which occurred during the operation of a motorcycle, the program shall meet the standards established by the [director of the department of public safety] **state highways and transportation commission** pursuant to sections 302.133 to [302.138] **302.137**. The completion of a driver-improvement program or a motorcycle-rider training course shall not be accepted in lieu of points more than one time in any thirty-six-month period and shall be completed within sixty days of the date of conviction in order to be accepted in lieu of the assessment of points. Every court having jurisdiction pursuant to the provisions of this subsection shall, within fifteen days after completion of the driver-improvement program or motorcycle-rider training course by an operator, forward a record of the completion to the director, all other provisions of the law to the contrary notwithstanding. The director shall establish procedures for record keeping and the administration of this subsection.

304.022. EMERGENCY VEHICLE DEFINED — USE OF LIGHTS AND SIRENS — RIGHT-OF-WAY — STATIONARY VEHICLES, PROCEDURE — PENALTY. — 1. Upon the immediate approach of an emergency vehicle giving audible signal by siren or while having at least one lighted lamp exhibiting red light visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle or a flashing blue light authorized by section 307.175, RSMo, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as far as possible to the right of, the traveled portion of the highway and thereupon stop and remain in such position until such emergency vehicle has passed, except when otherwise directed by a police or traffic officer.

2. Upon approaching a stationary emergency vehicle displaying lighted red or red and blue lights, the driver of every motor vehicle shall:

(1) Proceed with caution and yield the right-of-way, if possible with due regard to safety and traffic conditions, by making a lane change into a lane not adjacent to that of the stationary vehicle, if on a roadway having at least four lanes with not less than two lanes proceeding in the same direction as the approaching vehicle; or

(2) Proceed with due caution and reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be unsafe or impossible.

3. The motorman of every streetcar shall immediately stop such car clear of any intersection and keep it in such position until the emergency vehicle has passed, except as otherwise directed by a police or traffic officer.

4. An "emergency vehicle" is a vehicle of any of the following types:

(1) A vehicle operated by the state highway patrol, the state water patrol, the Missouri capitol police, or a state park ranger, those vehicles operated by enforcement personnel of the state highways and transportation commission, police or fire department, sheriff, constable or deputy sheriff, federal law enforcement officer authorized to carry firearms and to make arrests for violations of the laws of the United States, traffic officer or coroner or by a privately owned emergency vehicle company;

(2) A vehicle operated as an ambulance or operated commercially for the purpose of transporting emergency medical supplies or organs;

(3) Any vehicle qualifying as an emergency vehicle pursuant to section 307.175, RSMo;

(4) Any wrecker, or tow truck or a vehicle owned and operated by a public utility or public service corporation while performing emergency service;

(5) Any vehicle transporting equipment designed to extricate human beings from the wreckage of a motor vehicle;

(6) Any vehicle designated to perform emergency functions for a civil defense or emergency management agency established pursuant to the provisions of chapter 44, RSMo;

(7) Any vehicle operated by an authorized employee of the department of corrections who, as part of the employee's official duties, is responding to a riot, disturbance, hostage incident, escape or other critical situation where there is the threat of serious physical injury or death, responding to mutual aid call from another criminal justice agency, or in accompanying an ambulance which is transporting an offender to a medical facility;

(8) Any vehicle designated to perform hazardous substance emergency functions established pursuant to the provisions of sections 260.500 to 260.550, RSMo.

5. (1) The driver of any vehicle referred to in subsection 4 of this section shall not sound the siren thereon or have the front red lights or blue lights on except when such vehicle is responding to an emergency call or when in pursuit of an actual or suspected law violator, or when responding to, but not upon returning from, a fire.

(2) The driver of an emergency vehicle may:

(a) Park or stand irrespective of the provisions of sections 304.014 to [304.026] **304.025**;

(b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(c) Exceed the prima facie speed limit so long as the driver does not endanger life or property;

(d) Disregard regulations governing direction of movement or turning in specified directions.

(3) The exemptions granted to an emergency vehicle pursuant to subdivision (2) of this subsection shall apply only when the driver of any such vehicle while in motion sounds audible signal by bell, siren, or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted lamp displaying a red light or blue light visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle.

6. No person shall purchase an emergency light as described in this section without furnishing the seller of such light an affidavit stating that the light will be used exclusively for emergency vehicle purposes.

7. Violation of this section shall be deemed a class [B] **A** misdemeanor.

304.070. VIOLATION OF SECTION 304.050, PENALTY. — 1. Any person who violates any of the provisions of subsections 1, 3, and 6 of section 304.050 is guilty of a class A misdemeanor. In addition, beginning July 1, 2005, the court may suspend the driver's license of any person who violates the provision of subsection 1 of section 304.050. If ordered by the court, the director shall suspend the driver's license for ninety days for a first offense of subsection 1 of section 304.050, and one hundred twenty days for a second or subsequent offense of subsection 1 of section 304.050. **Any person who violates subsection 1 of section 304.050 where such violation results in the injury of any child shall be guilty of a class D felony. Any person who violates subsection 1 of section 304.050 where such violation causes the death of any child shall be guilty of a class C felony.**

2. Any appeal of a suspension imposed under subsection 1 of this section shall be a direct appeal of the court order and subject to review by the presiding judge of the circuit court or another judge within the circuit other than the judge who issued the original order to suspend the driver's license. The director of revenue's entry of the court-ordered suspension on the driving record is not a decision subject to review pursuant to section 302.311, RSMo. Any suspension of the driver's license ordered by the court under this section shall be in addition to any other suspension that may occur as a result of the conviction pursuant to other provisions of law.

304.351. RIGHT-OF-WAY AT INTERSECTION — SIGNS AT INTERSECTIONS — VIOLATION, PENALTY — ADDITIONAL PENALTIES — DEFINITIONS — ORDER OF SUSPENSION, CONTENTS, APPEAL. — 1. The driver of a vehicle approaching an intersection shall yield the right-of-way

to a vehicle which has entered the intersection from a different highway, provided, however, there is no form of traffic control at such intersection.

2. When two vehicles enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the driver of the vehicle on the right. This subsection shall not apply to vehicles approaching each other from opposite directions when the driver of one of such vehicles is attempting to or is making a left turn.

3. The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard.

4. (1) The state highways and transportation commission with reference to state highways and local authorities with reference to other highways under their jurisdiction may designate through highways and erect stop signs or yield signs at specified entrances thereto, or may designate any intersection as a stop intersection or as a yield intersection and erect stop signs or yield signs at one or more entrances to such intersection.

[(1)] (2) Preferential right-of-way at an intersection may be indicated by stop signs or yield signs as authorized in this section:

(a) Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching a stop intersection, indicated by a stop sign, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic in the intersecting roadway before entering the intersection. After having stopped, the driver shall yield the right-of-way to any vehicle which has entered the intersection from another highway or which is approaching so closely on the highway as to constitute an immediate hazard during the time when such driver is moving across or within the intersection.

(b) The driver of a vehicle approaching a yield sign shall in obedience to the sign slow down to a speed reasonable to the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After slowing or stopping the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time such traffic is moving across or within the intersection.

5. The driver of a vehicle about to enter or cross a highway from an alley, building or any private road or driveway shall yield the right-of-way to all vehicles approaching on the highway to be entered.

6. The driver of a vehicle intending to make a left turn into an alley, private road or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction when the making of such left turn would create a traffic hazard.

7. The state highways and transportation commission or local authorities with respect to roads under their respective jurisdictions, on any section where construction or major maintenance operations are being effected, may fix a speed limit in such areas by posting of appropriate signs, and the operation of a motor vehicle in excess of such speed limit in the area so posted shall be deemed prima facie evidence of careless and imprudent driving and a violation of section 304.010.

8. Notwithstanding the provisions of section 304.361, violation of this section shall be deemed a class C misdemeanor.

9. In addition to the penalty specified in subsection 8 of this section, any person who pleads guilty to or is found guilty of a violation of this section in which the offender is found to have caused physical injury, there shall be assessed a penalty of up to two hundred dollars. The court may issue an order of suspension of such person's driving privilege for a period of thirty days.

10. In addition to the penalty specified in subsection 8 of this section, any person who pleads guilty to or is found guilty of a violation of this section in which the offender is found to have caused serious physical injury, there shall be assessed a penalty of up to five hundred dollars. The court may issue an order of suspension of such person's driving privilege for a period of ninety days.

11. In addition to the penalty specified in subsection 8 of this section, any person who pleads guilty to or is found guilty of a violation of this section in which the offender is found to have caused a fatality, there shall be assessed a penalty of up to one thousand dollars. The court may issue an order of suspension of such person's driving privilege for a period of six months.

12. As used in subsections 9 and 10 of this section, the terms "physical injury" and "serious physical injury" shall have the meanings ascribed to them in section 556.061, RSMo.

13. For any court-ordered suspension under subsection 9, 10, or 11 of this section, the director of the department shall impose such suspension as set forth in the court order. The order of suspension shall include the name of the offender, the offender's driver's license number, social security number, and the effective date of the suspension. Any appeal of a suspension imposed under subsection 9, 10, or 11 of this section shall be a direct appeal of the court order and subject to review by the presiding judge of the circuit court or another judge within the circuit other than the judge who issued the original order to suspend the driver's license. The director of revenue's entry of the court-ordered suspension on the driving record is not a decision subject to review under section 302.311, RSMo. Any suspension of the driver's license ordered by the court under this section shall be in addition to any other suspension that may occur as a result of the conviction under other provisions of law.

304.580. DEFINITIONS. — [1.] As used in [this section] sections 304.582 and 304.585, the term "construction zone" or "work zone" means any area upon or around any highway as defined in section 302.010, RSMo, which is visibly marked by the department of transportation or a contractor or subcontractor performing work for the department of transportation as an area where construction, maintenance, **incident removal**, or other work is temporarily occurring. The term "work zone" or "construction zone" also includes the lanes of highway leading up to the area upon which an activity described in this subsection is being performed, beginning at the point where appropriate signs [directing motor vehicles to merge from one lane into another lane] or **traffic control devices** are posted or placed. **The terms "worker" or "highway worker" as used in sections 304.582 and 304.585 shall mean any person that is working in a "construction zone" or "work zone", or any employee of the department of transportation that is performing duties under the department's motorist assist program on a state highway or the right-of-way of a state highway.**

[2. Upon a conviction or a plea of guilty by any person for a moving violation as defined in section 302.010, RSMo, or any offense listed in section 302.302, RSMo, the court shall assess a fine of thirty-five dollars in addition to any other fine authorized to be imposed by law, if the offense occurred within a construction zone or a work zone.

3. Upon a conviction or plea of guilty by any person for a speeding violation pursuant to either section 304.009 or 304.010, or a passing violation pursuant to subsection 6 of this section, the court shall assess a fine of two hundred fifty dollars in addition to any other fine authorized by law, if the offense occurred within a construction zone or a work zone and at the time the speeding or passing violation occurred there was any person in such zone who was there to perform duties related to the reason for which the area was designated a construction zone or work zone. However, no person assessed an additional fine pursuant to this subsection shall also be assessed an additional fine pursuant to subsection 2 of this section, and no person shall be

assessed an additional fine pursuant to this subsection if no signs have been posted pursuant to subsection 4 of this section.

4. The penalty authorized by subsection 3 of this section shall only be assessed by the court if the department of transportation or contractor performing work for the department of transportation has erected signs upon or around a construction or work zone which are clearly visible from the highway and which state substantially the following message: "Warning: \$250 fine for speeding or passing in this work zone".

5. During any day in which no person is present in a construction zone or work zone established pursuant to subsection 3 of this section to perform duties related to the purpose of the zone, the sign warning of additional penalties shall not be visible to motorists. During any period of two hours or more in which no person is present in such zone on a day in which persons have been or will be present to perform duties related to the reason for which the area was designated as a construction zone or work zone, the sign warning of additional penalties shall not be visible to motorists. The department of transportation or contractor performing work for the department of transportation shall be responsible for compliance with provisions of this subsection. Nothing in this subsection shall prohibit warning or traffic control signs necessary for public safety in the construction or work zone being visible to motorists at all times.

6. The driver of a motor vehicle may not overtake or pass another motor vehicle within a work zone or construction zone. This subsection applies to a construction zone or work zone located upon a highway divided into two or more marked lanes for traffic moving in the same direction and for which motor vehicles are instructed to merge from one lane into another lane by an appropriate sign erected by the department of transportation or a contractor performing work for the department of transportation. Violation of this subsection is a class C misdemeanor.

7. This section shall not be construed to enhance the assessment of court costs or the assessment of points pursuant to section 302.302, RSMo.]

304.582. FINES FOR MOVING VIOLATIONS — FINES FOR VIOLATIONS IN WORK OR CONSTRUCTION ZONES — SIGNS REQUIRED FOR ASSESSING FINES — PENALTY FOR PASSING IN WORK OR CONSTRUCTION ZONES — NOT APPLICABLE TO COURT COSTS. — 1. Upon the first conviction or plea of guilty by any person for a moving violation as defined in section 302.010, RSMo, or any offense listed in section 302.302, RSMo, the court shall assess a fine of thirty-five dollars in addition to any other fine authorized to be imposed by law, if the offense occurred within a construction zone or a work zone. Upon a second or subsequent such conviction or plea of guilty, the court shall assess a fine of seventy-five dollars in addition to any other fine authorized to be imposed by law.

2. Upon the first conviction or plea of guilty by any person for a speeding violation under either section 304.009 or 304.010, or a passing violation under subsection 4 of this section, the court shall assess a fine of two hundred fifty dollars in addition to any other fine authorized by law if the offense occurred within a construction zone or a work zone and at the time the speeding or passing violation occurred there was any highway worker in such zone. Upon a second or subsequent such conviction or plea of guilty, the court shall assess a fine of three hundred dollars in addition to any other fine authorized by law. However, no person assessed an additional fine under this subsection shall also be assessed an additional fine under subsection 1 of this section, and no person shall be assessed an additional fine under this subsection if no signs have been posted under subsection 3 of this section.

3. The penalty authorized by subsection 2 of this section shall only be assessed by the court if the department of transportation or a contractor or subcontractor performing work for the department of transportation has erected signs upon or around a construction zone or work zone which are clearly visible from the highway and which state substantially the following message: "Warning: Minimum \$250 fine for speeding or passing in this work zone when workers are present."

4. The driver of a motor vehicle may not overtake or pass another motor vehicle within a work zone or construction zone as provided in this subsection. Violation of this subsection is a class C misdemeanor.

(1) This subsection applies to a construction zone or work zone located upon a highway divided into two or more marked lanes for traffic moving in the same direction and for which motor vehicles are instructed to merge from one lane into another lane and not pass by appropriate signs or traffic control devices erected by the department of transportation or a contractor or subcontractor performing work for the department of transportation.

(2) This subsection also prohibits the operator of a motor vehicle from passing or attempting to pass another motor vehicle in a work zone or construction zone located upon a two-lane highway when highway workers or equipment are working and when appropriate signs or traffic control devices have been erected by the department of transportation or a contractor or subcontractor performing work for the department of transportation.

5. The additional fines imposed by this section shall not be construed to enhance the assessment of court costs or the assessment of points under section 302.302, RSMo.

304.585. ENDANGERMENT OF A HIGHWAY WORKER DEFINED — FINE, POINTS ASSESSED — AGGRAVATED ENDANGERMENT OF A HIGHWAY WORKER, FINE, POINTS ASSESSED — OFFENSE NOT APPLICABLE IN ABSENCE OF WORKERS IN ZONE — NO CITATION OR CONVICTION, WHEN. — 1. A person shall be deemed to commit the offense of "endangerment of a highway worker" upon conviction for any of the following when the offense occurs within a "construction zone" or "work zone", as defined in section 304.580:

- (1) Exceeding the posted speed limit by fifteen miles per hour or more;
- (2) Passing in violation of subsection 4 of section 304.582;
- (3) Failure to stop for a work zone flagman or failure to obey traffic control devices erected in the construction zone or work zone for purposes of controlling the flow of motor vehicles through the zone;
- (4) Driving through or around a work zone by any lane not clearly designated to motorists for the flow of traffic through or around the work zone;
- (5) Physically assaulting, or attempting to assault, or threatening to assault a highway worker in a construction zone or work zone, with a motor vehicle or other instrument;
- (6) Intentionally striking, moving, or altering barrels, barriers, signs, or other devices erected to control the flow of traffic to protect workers and motorists in the work zone for a reason other than avoidance of an obstacle, an emergency, or to protect the health and safety of an occupant of the motor vehicle or of another person; or
- (7) Committing any of the following offenses for which points may be assessed under section 302.302, RSMo:
 - (a) Leaving the scene of an accident in violation of section 577.060, RSMo;
 - (b) Careless and imprudent driving in violation of subsection 4 of section 304.016;
 - (c) Operating without a valid license in violation of subdivision (1) or (2) of subsection 1 of section 302.020, RSMo;
 - (d) Operating with a suspended or revoked license;
 - (e) Driving while in an intoxicated condition or under the influence of controlled substances or drugs or driving with an excessive blood alcohol content;
 - (f) Any felony involving the use of a motor vehicle.

2. Upon conviction or a plea of guilty for committing the offense of "endangerment of a highway worker" under subsection 1 of this section if no injury or death to a highway worker resulted from the offense, in addition to any other penalty authorized by law, the person shall be subject to a fine of not more than one thousand dollars and shall have four points assessed to his or her driver's license under section 302.302, RSMo.

3. A person shall be deemed to commit the offense of "aggravated endangerment of a highway worker" upon conviction or a plea of guilty for any offense under subsection 1 of this section when such offense occurs in a construction zone or work zone as defined in section 304.580 and results in the injury or death of a highway worker. Upon conviction or a plea of guilty for committing the offense of aggravated endangerment of a highway worker, in addition to any other penalty authorized by law, the person shall be subject to a fine of not more than five thousand dollars if the offense resulted in injury to a highway worker and ten thousand dollars if the offense resulted in death to a highway worker. In addition, such person shall have twelve points assessed to their driver's license under section 302.302, RSMo, and shall be subject to the provisions of section 302.304, RSMo, regarding the revocation of the person's license and driving privileges.

4. Except for the offense established under subdivision (6) of subsection 1 of this section, no person shall be deemed to commit the offense of endangerment of a highway worker except when the act or omission constituting the offense occurred when one or more highway workers were in the construction zone or work zone.

5. No person shall be cited or convicted for endangerment of a highway worker or aggravated endangerment of a highway worker, for any act or omission otherwise constituting an offense under subsection 1 of this section, if such act or omission resulted in whole or in part from mechanical failure of the person's vehicle or from the negligence of another person or a highway worker.

307.178. SEAT BELTS REQUIRED FOR PASSENGER CARS — PASSENGER CARS DEFINED — EXCEPTIONS — FAILURE TO COMPLY, EFFECT ON EVIDENCE AND DAMAGES — PENALTY — PASSENGERS IN CAR EXCEEDING NUMBER OF SEAT BELTS NOT VIOLATION FOR FAILURE TO USE. — 1. As used in this section, the term "passenger car" means every motor vehicle designed for carrying ten persons or less and used for the transportation of persons; except that, the term "passenger car" shall not include motorcycles, motorized bicycles, motor tricycles, and trucks with a licensed gross weight of twelve thousand pounds or more.

2. Each driver, except persons employed by the United States Postal Service while performing duties for that federal agency which require the operator to service postal boxes from their vehicles, or which require frequent entry into and exit from their vehicles, and front seat passenger of a passenger car manufactured after January 1, 1968, operated on a street or highway in this state, and persons less than eighteen years of age operating or riding in a truck, as defined in section 301.010, RSMo, on a street or highway of this state shall wear a properly adjusted and fastened safety belt that meets federal National Highway, Transportation and Safety Act requirements[; except that, a child less than four years of age shall be protected as required in section 210.104, RSMo]. No person shall be stopped, inspected, or detained solely to determine compliance with this subsection. The provisions of this section **and section 307.182** shall not be applicable to persons who have a medical reason for failing to have a seat belt fastened about their body, nor shall the provisions of this section be applicable to persons while operating or riding a motor vehicle being used in agricultural work-related activities. Noncompliance with this subsection shall not constitute probable cause for violation of any other provision of law. **The provisions of this subsection shall not apply to the transporting of children under sixteen years of age, as provided in section 307.182.**

3. Each driver of a motor vehicle transporting a child [four years of age or more, but] less than sixteen years of age[,] shall secure the child in a properly adjusted and fastened [safety belt] **restraint under section 307.182.**

4. In any action to recover damages arising out of the ownership, common maintenance or operation of a motor vehicle, failure to wear a safety belt in violation of this section shall not be considered evidence of comparative negligence. Failure to wear a safety belt in violation of this section may be admitted to mitigate damages, but only under the following circumstances:

(1) Parties seeking to introduce evidence of the failure to wear a safety belt in violation of this section must first introduce expert evidence proving that a failure to wear a safety belt contributed to the injuries claimed by plaintiff;

(2) If the evidence supports such a finding, the trier of fact may find that the plaintiff's failure to wear a safety belt in violation of this section contributed to the plaintiff's claimed injuries, and may reduce the amount of the plaintiff's recovery by an amount not to exceed one percent of the damages awarded after any reductions for comparative negligence.

5. **Except as otherwise provided for in section 307.182**, each [driver] **person** who violates the provisions of subsection 2 [or 3] of this section is guilty of an infraction for which a fine not to exceed ten dollars may be imposed. All other provisions of law and court rules to the contrary notwithstanding, no court costs shall be imposed on any person due to a violation of this section. In no case shall points be assessed against any person, pursuant to section 302.302, RSMo, for a violation of this section.

6. The [department of public safety] **state highways and transportation commission** shall initiate and develop a program of public information to develop understanding of, and ensure compliance with, the provisions of this section. The [department of public safety] **commission** shall evaluate the effectiveness of this section and shall include a report of its findings in the annual evaluation report on its highway safety plan that it submits to NHTSA and FHWA pursuant to 23 U.S.C. 402.

7. If there are more persons than there are seat belts in the enclosed area of a motor vehicle, then the [driver and passengers are not in violation of this section.] **passengers who are unable to wear seat belts shall sit in the area behind the front seat of the motor vehicle unless the motor vehicle is designed only for a front-seated area. The passenger or passengers occupying a seat location referred to in this subsection is not in violation of this section. This subsection shall not apply to passengers who are accompanying a driver of a motor vehicle who is licensed under section 302.178, RSMo.**

307.182. DEFINITIONS — TRANSPORTING CHILDREN UNDER SIXTEEN YEARS OF AGE, RESTRAINT SYSTEMS — PENALTY — EXCEPTIONS — PROGRAM OF PUBLIC INFORMATION.

— 1. As used in this section, the following terms shall mean:

(1) "Child booster seat", a seating system which meets the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213, as amended, that is designed to elevate a child to properly sit in a federally approved safety belt system;

(2) "Child passenger restraint system", a seating system which meets the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213, as amended, and which is either permanently affixed to a motor vehicle or is affixed to such vehicle by a safety belt or a universal attachment system;

(3) "Driver", a person who is in actual physical control of a motor vehicle.

2. Every driver transporting a child under the age of sixteen years shall be responsible, when transporting such child in a motor vehicle operated by that driver on the streets or highways of this state, for providing for the protection of such child as follows:

(1) Children less than four years of age, regardless of weight, shall be secured in a child passenger restraint system appropriate for that child;

(2) Children weighing less than forty pounds, regardless of age, shall be secured in a child passenger restraint system appropriate for that child;

(3) Children at least four years of age but less than eight years of age, who also weigh at least forty pounds but less than eighty pounds, and who are also less than four feet, nine inches tall, shall be secured in a child passenger restraint system or booster seat appropriate for that child;

(4) Children at least eighty pounds or children more than four feet, nine inches in height shall be secured by a vehicle safety belt or booster seat appropriate for that child.

(5) A child who otherwise would be required to be secured in a booster seat may be transported in the back seat of a motor vehicle while wearing only a lap belt if the back seat of the motor vehicle is not equipped with a combination lap and shoulder belt for booster seat installation.

(6) When transporting children in the immediate family when there are more children than there are seating positions in the enclosed area of a motor vehicle, the children who are not able to be restrained by a child safety restraint device appropriate for the child shall sit in the area behind the front seat of the motor vehicle unless the motor vehicle is designed only for a front seat area. The driver transporting children referred to in this subsection is not in violation of this section.

This subsection shall only apply to the use of a child passenger restraint system or vehicle safety belt for children less than sixteen years of age being transported in a motor vehicle.

3. Any driver who violates subdivision (1), (2), or (3) of subsection 2 of this section is guilty of an infraction and, upon conviction, may be punished by a fine of not more than fifty dollars and court costs. Any driver who violates subdivision (4) of subsection 2 of this section shall be subject to the penalty in subsection 5 of section 307.178. If a driver receives a citation for violating subdivision (1), (2), or (3) of subsection 2 of this section, the charges shall be dismissed or withdrawn if the driver prior to or at his or her hearing provides evidence of acquisition of a child passenger restraint system or child booster seat which is satisfactory to the court or the party responsible for prosecuting the driver's citation.

4. The provisions of this section shall not apply to any public carrier for hire. The provisions of this section shall not apply to students four years of age or older who are passengers on a school bus designed for carrying eleven passengers or more and which is manufactured or equipped pursuant to Missouri Minimum Standards for School Buses as school buses are defined in section 301.010, RSMo.

5. The highways and transportation commission shall initiate and develop a program of public information to develop understanding of, and ensure compliance with, the provisions of this section.

565.024. INVOLUNTARY MANSLAUGHTER, PENALTY. — 1. A person commits the crime of involuntary manslaughter in the first degree if he or she:

(1) Recklessly causes the death of another person; or
(2) While in an intoxicated condition operates a motor vehicle in this state and, when so operating, acts with criminal negligence to cause the death of any person; or

(3) While in an intoxicated condition operates a motor vehicle in this state, and, when so operating, acts with criminal negligence to:

(a) Cause the death of any person not a passenger in the vehicle operated by the defendant, including the death of an individual that results from the defendant's vehicle leaving a highway, as defined by section 301.010, RSMo, or the highway's right-of-way; or

(b) Cause the death of two or more persons; or

(c) Cause the death of any person while he or she has a blood alcohol content of at least eighteen-hundredths of one percent by weight of alcohol in such person's blood; or

(4) Operates a motor vehicle in violation of subsection 2 of section 304.022, RSMo, and when so operating, acts with criminal negligence to cause the death of any person authorized to operate an emergency vehicle, as defined in section 304.022, RSMo, while such person is in the performance of official duties.

2. Involuntary manslaughter in the first degree under subdivision (1) or (2) of subsection 1 of this section is a class C felony. Involuntary manslaughter in the first degree under subdivision (3) of subsection 1 of this section is a class B felony. A second or subsequent

violation of subdivision (3) of subsection 1 of this section is a class A felony. For any violation of subdivision (3) of subsection 1 of this section, the minimum prison term which the defendant must serve shall be eighty-five percent of his or her sentence. **Any violation of subdivision (4) of subsection 1 of this section is a class B felony.**

3. A person commits the crime of involuntary manslaughter in the second degree if he acts with criminal negligence to cause the death of any person.

4. Involuntary manslaughter in the second degree is a class D felony.

565.060. ASSAULT, SECOND DEGREE, PENALTY. — 1. A person commits the crime of assault in the second degree if he:

(1) Attempts to kill or knowingly causes or attempts to cause serious physical injury to another person under the influence of sudden passion arising out of adequate cause; or

(2) Attempts to cause or knowingly causes physical injury to another person by means of a deadly weapon or dangerous instrument; or

(3) Recklessly causes serious physical injury to another person; or

(4) While in an intoxicated condition or under the influence of controlled substances or drugs, operates a motor vehicle in this state and, when so operating, acts with criminal negligence to cause physical injury to any other person than himself; or

(5) Recklessly causes physical injury to another person by means of discharge of a firearm;
or

(6) Operates a motor vehicle in violation of subsection 2 of section 304.022, RSMo, and when so operating, acts with criminal negligence to cause physical injury to any person authorized to operate an emergency vehicle, as defined in section 304.022, RSMo, while such person is in the performance of official duties.

2. The defendant shall have the burden of injecting the issue of influence of sudden passion arising from adequate cause under subdivision (1) of subsection 1 of this section.

3. Assault in the second degree is a class C felony.

577.020. CITATION OF LAW — CHEMICAL TESTS FOR ALCOHOL CONTENT OF BLOOD — CONSENT IMPLIED, WHEN — ADMINISTERED, WHEN, HOW — INFORMATION AVAILABLE TO PERSON TESTED, CONTENTS — VIDEOTAPING OF CHEMICAL OR FIELD SOBRIETY TEST ADMISSIBLE EVIDENCE. — 1. **Sections 577.020 and 577.021 shall be known as the Alan Woods Law.**

2. Any person who operates a motor vehicle upon the public highways of this state shall be deemed to have given consent to, subject to the provisions of sections 577.020 to 577.041, a chemical test or tests of the person's breath, blood, saliva or urine for the purpose of determining the alcohol or drug content of the person's blood pursuant to the following circumstances:

(1) If the person is arrested for any offense arising out of acts which the arresting officer had reasonable grounds to believe were committed while the person was driving a motor vehicle while in an intoxicated or drugged condition; or

(2) If the person is under the age of twenty-one, has been stopped by a law enforcement officer, and the law enforcement officer has reasonable grounds to believe that such person was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more by weight; or

(3) If the person is under the age of twenty-one, has been stopped by a law enforcement officer, and the law enforcement officer has reasonable grounds to believe that such person has committed a violation of the traffic laws of the state, or any political subdivision of the state, and such officer has reasonable grounds to believe, after making such stop, that such person has a blood alcohol content of two-hundredths of one percent or greater;

(4) If the person is under the age of twenty-one, has been stopped at a sobriety checkpoint or roadblock and the law enforcement officer has reasonable grounds to believe that such person has a blood alcohol content of two-hundredths of one percent or greater;

(5) If the person, while operating a motor vehicle, has been involved in a motor vehicle collision which resulted in a fatality or a readily apparent serious physical injury as defined in section 565.002, RSMo, [and] **or** has been arrested as evidenced by the issuance of a uniform traffic ticket for the violation of any state law or county or municipal ordinance with the exception of equipment violations contained in chapter 306, RSMo, or similar provisions contained in county or municipal ordinances; or

(6) If the person, while operating a motor vehicle, has been involved in a motor vehicle collision which resulted in a fatality **or serious physical injury as defined in section 565.002, RSMo.**

The test shall be administered at the direction of the law enforcement officer whenever the person has been arrested or stopped for any reason.

[2.] **3.** The implied consent to submit to the chemical tests listed in subsection [1] **2** of this section shall be limited to not more than two such tests arising from the same arrest, incident or charge.

[3.] **4.** Chemical analysis of the person's breath, blood, saliva, or urine to be considered valid pursuant to the provisions of sections 577.020 to 577.041 shall be performed according to methods approved by the state department of health and senior services by licensed medical personnel or by a person possessing a valid permit issued by the state department of health and senior services for this purpose.

[4.] **5.** The state department of health and senior services shall approve satisfactory techniques, devices, equipment, or methods to be considered valid pursuant to the provisions of sections 577.020 to 577.041 and shall establish standards to ascertain the qualifications and competence of individuals to conduct analyses and to issue permits which shall be subject to termination or revocation by the state department of health and senior services.

[5.] **6.** The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person at the choosing and expense of the person to be tested, administer a test in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test taken at the direction of a law enforcement officer.

[6.] **7.** Upon the request of the person who is tested, full information concerning the test shall be made available to such person. **Full information is limited to the following:**

- (1) **The type of test administered and the procedures followed;**
- (2) **The time of the collection of the blood or breath sample or urine analyzed;**
- (3) **The numerical results of the test indicating the alcohol content of the blood and breath and urine;**
- (4) **The type and status of any permit which was held by the person who performed the test;**

(5) **If the test was administered by means of a breath testing instrument, the date of performance of the most recent required maintenance of such instrument.**

Full information does not include manuals, schematics, or software of the instrument used to test the person or any other material that is not in the actual possession of the state. Additionally, full information does not include information in the possession of the manufacturer of the test instrument.

[7.] **8.** Any person given a chemical test of the person's breath pursuant to subsection [1] **2** of this section or a field sobriety test may be videotaped during any such test at the direction of the law enforcement officer. Any such video recording made during the chemical test pursuant to this subsection or a field sobriety test shall be admissible as evidence at either any trial of such person for either a violation of any state law or county or municipal ordinance, or any license revocation or suspension proceeding pursuant to the provisions of chapter 302, RSMo.

577.021. CHEMICAL TESTING AUTHORIZED — REASONABLE EFFORTS TO TEST REQUIRED — ADMISSIBILITY — SEVERABILITY CLAUSE. — 1. Any state, county or municipal law enforcement officer who has the power of arrest for violations of section 577.010 or 577.012 and who is certified pursuant to chapter 590, RSMo, may, prior to arrest, administer a chemical test to any person suspected of operating a motor vehicle in violation of section 577.010 or 577.012.

2. Any state, county, or municipal law enforcement officer who has the power of arrest for violations of section 577.010 or 577.012 and who is certified under chapter 590, RSMo, shall make all reasonable efforts to administer a chemical test to any person suspected of driving a motor vehicle involved in a collision which resulted in a fatality or serious physical injury as defined in section 565.002, RSMo.

3. A test administered pursuant to this section shall be admissible as evidence of probable cause to arrest and as exculpatory evidence, but shall not be admissible as evidence of blood alcohol content. The provisions of section 577.020 shall not apply to a test administered prior to arrest pursuant to this section. **The provisions changing chapter 577 are severable from this legislation. The general assembly would have enacted the remainder of this legislation without the changes made to chapter 577, and the remainder of the legislation is not essentially and inseparably connected with or dependent upon the changes to chapter 577.**

[210.104. PASSENGER RESTRAINT SYSTEM REQUIRED FOR CHILD UNDER FOUR YEARS OF AGE — EXCEPTIONS — VIOLATION, FINE. — 1. Every person transporting a child under the age of four years shall be responsible, when transporting such child in a motor vehicle operated by that person on the streets or highways of this state, for providing for the protection of such child. Such child shall be protected by a child passenger restraint system approved by the department of public safety.

2. Any person who violates this section is guilty of an infraction and, upon conviction, may be punished by a fine of not more than twenty-five dollars and court costs.

3. The provisions of sections 210.104 to 210.107 shall not apply to any public carrier for hire.]

[210.107. STANDARDS TO BE ESTABLISHED BY DEPARTMENT OF PUBLIC SAFETY — RULES, PROCEDURE. — The department of public safety shall initiate and develop a program of public information to develop understanding of, and ensure compliance with the provisions of sections 210.104 to 210.107. The department of public safety shall, within thirty days of September 28, 1983, promulgate standards for the performance, design, and installation of passenger restraint systems for children under four years of age in accordance with federal motor vehicle safety standards and shall approve those systems which meet such standards. No rule or portion of a rule promulgated under the authority of sections 210.104 to 210.107 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.]

SECTION B. EFFECTIVE DATE. — The repeal and reenactment of section 304.351 shall become effective January 1, 2007.

Approved June 29, 2006

SB 881 [SB 881]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes the Governor to convey state property to St. Francois County

AN ACT to authorize the conveyance of property owned by the state to St. Francois County.

SECTION

1. Governor authorized to convey state real property in St. Francois County to St. Francois County.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. GOVERNOR AUTHORIZED TO CONVEY STATE REAL PROPERTY IN ST. FRANCOIS COUNTY TO ST. FRANCOIS COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in St. Francois County to St. Francois County. The property to be conveyed is more particularly described as follows:

All of the following described real estate situated in the City of Farmington, St. Francois County, State of Missouri:

All of that part of Lot Eighty-Five (85) of Rohland's Subdivision of U. S. Survey 2969, described as follows to-wit: From the Northeast corner of Lot 70 of Rohland's Subdivision of U. S. Survey 2969, Township 35 North, Range 5 East; thence South 07° 21' 31" West, 2347.70 feet to a point; thence North 82° 21' 34" West, 1803.93 feet a point; thence South 08° 01' 10" West 460.00 feet to the beginning of this description; thence North 81° 58' 50" West 453.00 feet to a point; thence South 08° 01' 10" West app 1080 feet to a point on the South Line of Lot 85 of Rohland's Subdivision; thence along the South Line of Lot 85, 453 feet to a point; thence North 08° 01' 10" East app 1080 to the point of beginning.

2. The commissioner of administration shall set the terms and conditions for the sale as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required and the time, place, and terms of the sale.

3. The attorney general shall approve the form of the instrument of conveyance.

Approved June 29, 2006

SB 892 [HCS SS SCS SB 892]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies law relating to financial institutions

AN ACT to repeal sections 143.471, 301.215, 306.435, 361.711, 361.715, 362.275, 362.445, 404.051, 404.550, 404.714, 408.555, 456.1-103, 456.1-105, 456.1-110, 456.1-112, 456.2-204, 456.3-301, 456.3-304, 456.4-401, 456.4-402, 456.4-411A, 456.4-411B, 456.5-501, 456.5-504, 456.5-506, 456.7-703, 456.8-813, 456.8-814, 456.8-816, 473.333, 473.787, 475.092, 475.130, 475.190, and 700.385, RSMo, and to enact in lieu thereof thirty-nine new sections relating to financial institutions, with a penalty provision.

SECTION

- A. Enacting clause.
- 143.471. Small business corporation — composite returns — withholding required, when, how determined — banking S corporation shareholder allowed pro rata share of certain tax credits, when — pro rata share of certain tax credits for S corporations that are associations — pro rata share of certain tax credits for S corporations that are credit institutions.

- 148.655. Tax credit allowed for S corporation shareholders of associations, amount.
- 148.657. Tax credit allowed for S corporation shareholders of credit institutions, amount.
- 301.215. Certificate of title on repossession under mortgage, issuance — contents — application — notice — rulemaking authority.
- 306.435. Repossessed vessels, motorboats and outboard motors, certificate of title — application, procedure, fee, form of — notice — issued, when — director of revenue, duties, rulemaking authority.
- 361.711. Surety bond or irrevocable letter of credit required costs, amount, special examinations.
- 361.715. License issued upon investigation, when — fee — charge for applications to amend and reissue.
- 362.078. Industrial loan companies and banks prohibited from maintaining facilities for banking purposes, definitions.
- 362.275. Monthly meeting of board — review of certain transactions — unanimous consent agreements permitted, when.
- 362.445. Process defined — director of finance to accept service of process, when — fee.
- 404.051. Powers of custodian, limitation — termination of custodianship, when, procedure — degree of care required for custodial property.
- 404.550. Duties and powers of personal custodian, directions of beneficiary, court's powers, contract with beneficiary.
- 404.714. Duties of attorney in fact.
- 408.555. Acceleration, repossession and cancellation restricted — required procedures — borrower's right to cure.
- 456.1-103. Definitions.
- 456.1-105. Default and mandatory rules.
- 456.1-110. Others treated as qualified beneficiaries.
- 456.1-112. Rules of construction — inapplicable to certain trusts.
- 456.2-204. Venue.
- 456.3-301. Representation, basic effect — prohibited, when.
- 456.3-304. Representation by person having substantially identical interest.
- 456.4-401. Methods of creating trust.
- 456.4-402. Requirements for creation.
- 456.4-411A. Modification or termination of noncharitable irrevocable trust by consent, exceptions.
- 456.4-411B. Modification or termination of noncharitable irrevocable trust by consent, applicability.
- 456.5-501. Rights of beneficiary's creditor or assignee, exceptions.
- 456.5-504. Discretionary trusts, interest not enforceable, when — applicability — effect of standard.
- 456.5-506. Mandatory distribution defined — overdue distribution.
- 456.7-703. Cotrustees.
- 456.8-813. Duty to inform and report — inapplicable, when.
- 456.8-814. Discretionary powers — tax savings.
- 456.8-816. Specific powers of trustee.
- 469.600. Doctrine of worthier title and Rule in Bingham's case abolished, effect of language describing beneficiaries.
- 473.333. Investment of surplus funds.
- 473.787. Duties of personal representative in independent administration — attorney required, when.
- 475.092. Protective arrangements and single transactions, court's powers — limitation of trustee's liability.
- 475.130. General duties and powers of conservator of estate.
- 475.190. Investment of money — reports.
- 700.385. Repossessed homes, certificate of title — application procedure, fee, form of — manufactured homes, notice — issued when — director of revenue, duties — rulemaking authority.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 143.471, 301.215, 306.435, 361.711, 361.715, 362.275, 362.445, 404.051, 404.550, 404.714, 408.555, 456.1-103, 456.1-105, 456.1-110, 456.1-112, 456.2-204, 456.3-301, 456.3-304, 456.4-401, 456.4-402, 456.4-411A, 456.4-411B, 456.5-501, 456.5-504, 456.5-506, 456.7-703, 456.8-813, 456.8-814, 456.8-816, 473.333, 473.787, 475.092, 475.130, 475.190, and 700.385, RSMo, are repealed and thirty-nine new sections enacted in lieu thereof, to be known as sections 143.471, 148.655, 148.657, 301.215, 306.435, 361.711, 361.715, 362.078, 362.275, 362.445, 404.051, 404.550, 404.714, 408.555, 456.1-103, 456.1-105, 456.1-110, 456.1-112, 456.2-204, 456.3-301, 456.3-304, 456.4-401, 456.4-402, 456.4-411A, 456.4-411B, 456.5-501, 456.5-504, 456.5-506, 456.7-703, 456.8-813, 456.8-814, 456.8-816, 469.600, 473.333, 473.787, 475.092, 475.130, 475.190, and 700.385, to read as follows:

143.471. SMALL BUSINESS CORPORATION — COMPOSITE RETURNS — WITHHOLDING REQUIRED, WHEN, HOW DETERMINED — BANKING S CORPORATION SHAREHOLDER ALLOWED PRO RATA SHARE OF CERTAIN TAX CREDITS, WHEN — PRO RATA SHARE OF CERTAIN TAX CREDITS FOR S CORPORATIONS THAT ARE ASSOCIATIONS — PRO RATA SHARE OF CERTAIN TAX CREDITS FOR S CORPORATIONS THAT ARE CREDIT INSTITUTIONS. — 1. An S corporation, as defined by Section 1361 (a)(1) of the Internal Revenue Code, shall not be subject to the taxes imposed by section 143.071, or other sections imposing income tax on corporations.

2. A shareholder of an S corporation shall determine such shareholder's S corporation modification and pro rata share, including its character, by applying the following:

(1) Any modification described in sections 143.121 and 143.141 which relates to an item of S corporation income, gain, loss, or deduction shall be made in accordance with the shareholder's pro rata share, for federal income tax purposes, of the item to which the modification relates. Where a shareholder's pro rata share of any such item is not required to be taken into account separately for federal income tax purposes, the shareholder's pro rata share of such item shall be determined in accordance with his pro rata share, for federal income tax purposes, of S corporation taxable income or loss generally;

(2) Each item of S corporation income, gain, loss, or deduction shall have the same character for a shareholder pursuant to sections 143.005 to 143.998 as it has for federal income tax purposes. Where an item is not characterized for federal income tax purposes, it shall have the same character for a shareholder as if realized directly from the source from which realized by the S corporation or incurred in the same manner as incurred by the S corporation.

3. A nonresident shareholder of an S corporation shall determine such shareholder's Missouri nonresident adjusted gross income and his or her nonresident shareholder modification by applying the provisions of this subsection. Items shall be determined to be from sources within this state pursuant to regulations of the director of revenue in a manner consistent with the division of income provisions of section 143.451, section 143.461, or section 32.200, RSMo (Multistate Tax Compact). In determining the adjusted gross income of a nonresident shareholder of any S corporation, there shall be included only that part derived from or connected with sources in this state of the shareholder's pro rata share of items of S corporation income, gain, loss or deduction entering into shareholder's federal adjusted gross income, as such part is determined pursuant to regulations prescribed by the director of revenue in accordance with the general rules in section 143.181. Any modification described in subsections 2 and 3 of section 143.121 and in section 143.141, which relates to an item of S corporation income, gain, loss, or deduction shall be made in accordance with the shareholder's pro rata share, for federal income tax purposes, of the item to which the modification relates, but limited to the portion of such item derived from or connected with sources in this state.

4. The director of revenue shall permit S corporations to file composite returns and to make composite payments of tax on behalf of its nonresident shareholders not otherwise required to file a return. If the nonresident shareholder's filing requirements result solely from one or more interests in any other partnerships or subchapter S corporations, that nonresident shareholder may be included in the composite return.

5. If an S corporation pays or credits amounts to any of its nonresident individual shareholders as dividends or as their share of the S corporation's undistributed taxable income for the taxable year, the S corporation shall either timely file with the department of revenue an agreement as provided in subsection 6 of this section or withhold Missouri income tax as provided in subsection 7 of this section. An S corporation that timely files an agreement as provided in subsection 6 of this section with respect to a nonresident shareholder for a taxable year shall be considered to have timely filed such an agreement for each subsequent taxable year. An S corporation that does not timely file such an agreement for a taxable year shall not be precluded from timely filing such an agreement for subsequent taxable years. An S corporation is not required to deduct and withhold Missouri income tax for a nonresident shareholder if:

(1) The nonresident shareholder not otherwise required to file a return agrees to have the Missouri income tax due paid as part of the S corporation's composite return;

(2) The nonresident shareholder not otherwise required to file a return had Missouri assignable federal adjusted gross income from the S corporation of less than twelve hundred dollars;

(3) The S corporation is liquidated or terminated;

(4) Income was generated by a transaction related to termination or liquidation; or

(5) No cash or other property was distributed in the current and prior taxable year.

6. The agreement referred to in subdivision (1) of subsection 5 of this section is an agreement of a nonresident shareholder of the S corporation to:

(1) File a return in accordance with the provisions of section 143.481 and to make timely payment of all taxes imposed on the shareholder by this state with respect to income of the S corporation; and

(2) Be subject to personal jurisdiction in this state for purposes of the collection of income taxes, together with related interest and penalties, imposed on the shareholder by this state with respect to the income of the S corporation. The agreement will be considered timely filed for a taxable year, and for all subsequent taxable years, if it is filed at or before the time the annual return for such taxable year is required to be filed pursuant to section 143.511.

7. The amount of Missouri income tax to be withheld is determined by multiplying the amount of dividends or undistributed income allocable to Missouri that is paid or credited to a nonresident shareholder during the taxable year by the highest rate used to determine a Missouri income tax liability for an individual, except that the amount of the tax withheld may be determined based on withholding tables provided by the director of revenue if the shareholder submits a Missouri withholding allowance certificate.

8. An S corporation shall be entitled to recover for a shareholder on whose behalf a tax payment was made pursuant to this section, if such shareholder has no tax liability.

9. With respect to S corporations that are banks or bank holding companies, a pro rata share of the tax credit for the tax payable pursuant to chapter 148, RSMo, shall be allowed against each S corporation shareholders' state income tax as follows, provided the bank otherwise complies with section 148.112:

(1) The credit allowed by this subsection shall be equal to the bank tax calculated pursuant to chapter 148, RSMo, based on bank income in 1999 and after, on a bank that makes an election pursuant to 26 U.S.C. Section 1362, and such credit shall be allocated to the qualifying shareholder according to stock ownership, determined by multiplying a fraction, where the numerator is the shareholder's stock, and the denominator is the total stock issued by such bank or bank holding company;

(2) The tax credit authorized in this subsection shall be permitted only to the shareholders that qualify as S corporation shareholders, provided the stock at all times during the taxable period qualifies as S corporation stock as defined in 26 U.S.C. Section 1361, and such stock is held by the shareholder during the taxable period. The credit created by this section on a yearly basis is available to each qualifying shareholder, including shareholders filing joint returns. A bank holding company is not allowed this credit, except that, such credit shall flow through to such bank holding company's qualified shareholders, and be allocated to such shareholders under the same conditions; and

(3) In the event such shareholder cannot use all or part of the tax credit in the taxable period of receipt, such shareholder may carry forward such tax credit for a period of the lesser of five years or until used, provided such credits are used as soon as the taxpayer has Missouri taxable income.

10. With respect to S corporations that are associations, a pro rata share of the tax credit for the tax payable under chapter 148, RSMo, shall be allowed against each S corporation shareholders' state income tax as follows, provided the association otherwise complies with section 148.655, RSMo:

(1) The credit allowed by this subsection shall be equal to the savings and loan association tax calculated under chapter 148, RSMo, based on the computations provided in section 148.630, RSMo, on an association that makes an election under 26 U.S.C. Section 1362, and such credit shall be allocated to the qualifying shareholder according to stock ownership, determined by multiplying a fraction, where the numerator is the shareholder's stock, and the denominator is the total stock issued by the association;

(2) The tax credit authorized in this subsection shall be permitted only to the shareholders that qualify as S corporation shareholders, provided the stock at all times during the taxable period qualifies as S corporation stock as defined in 26 U.S.C. Section 1361, and such stock is held by the shareholder during the taxable period. The credit created by this section on a yearly basis is available to each qualifying shareholder, including shareholders filing joint returns. A savings and loan association holding company is not allowed this credit, except that, such credit shall flow through to such savings and loan association holding company's qualified shareholders, and be allocated to such shareholders under the same conditions; and

(3) In the event such shareholder cannot use all or part of the tax credit in the taxable period of receipt, such shareholder may carry forward such tax credit for a period of the lesser of five years or until used, provided such credits are used as soon as the taxpayer has Missouri taxable income.

11. With respect to S corporations that are credit institutions, a pro rata share of the tax credit for the tax payable under chapter 148, RSMo, shall be allowed against each S corporation shareholders' state income tax as follows, provided the credit institution otherwise complies with section 148.657, RSMo:

(1) The credit allowed by this subsection shall be equal to the credit institution tax calculated under chapter 148, RSMo, based on the computations provided in section 148.150, RSMo, on a credit institution that makes an election under 26 U.S.C. Section 1362, and such credit shall be allocated to the qualifying shareholder according to stock ownership, determined by multiplying a fraction, where the numerator is the shareholder's stock, and the denominator is the total stock issued by such credit institution;

(2) The tax credit authorized in this subsection shall be permitted only to the shareholders that qualify as S corporation shareholders, provided the stock at all times during the taxable period qualifies as S corporation stock as defined in 26 U.S.C. Section 1361, and such stock is held by the shareholder during the taxable period. The credit created by this section on a yearly basis is available to each qualifying shareholder, including shareholders filing joint returns. A credit institution holding company is not allowed this credit, except that, such credit shall flow through to such credit institution holding company's qualified shareholders, and be allocated to such shareholders under the same conditions; and

(3) In the event such shareholder cannot use all or part of the tax credit in the taxable period of receipt, such shareholder may carry forward such tax credit for a period of the lesser of five years or until used, provided such credits are used as soon as the taxpayer has Missouri taxable income.

148.655. TAX CREDIT ALLOWED FOR S CORPORATION SHAREHOLDERS OF ASSOCIATIONS, AMOUNT. — Subchapter S corporation shareholders of an association required to pay franchise taxes under section 148.620, may take a tax credit against such shareholder's state income tax return, as provided in section 143.471, RSMo. Such tax credit shall be the taxpayer's pro rata share of the franchise tax paid by the association as provided in this chapter.

148.657. TAX CREDIT ALLOWED FOR S CORPORATION SHAREHOLDERS OF CREDIT INSTITUTIONS, AMOUNT. — Subchapter S corporation shareholders of a credit institution required to pay franchise taxes under section 148.140, may take a tax credit against such shareholder's state income tax return, as provided in section 143.471, RSMo. Such tax credit shall be the taxpayer's pro rata share of the franchise tax paid by the credit institution as provided in this chapter.

301.215. CERTIFICATE OF TITLE ON REPOSSESSION UNDER MORTGAGE, ISSUANCE — CONTENTS — APPLICATION — NOTICE — RULEMAKING AUTHORITY. — 1. When the holder of any indebtedness secured by a security agreement or other contract for security covering a motor vehicle or trailer, **who has a notice of lien on file with the director of revenue**, repossesses the motor vehicle or trailer either by legal process or in accordance with the terms of a contract authorizing the repossession of the vehicle without legal process, the holder may obtain a certificate of ownership from the director of revenue upon presentation of:

(1) An application [which shall be upon a blank] form furnished by the director of revenue [and] **that** shall contain a full description of the motor vehicle or trailer and the manufacturer's or other identifying number;

(2) **A notice of lien receipt or the original certificate of ownership reflecting the holder's lien;** and

(3) An affidavit of the holder, certified under penalties of perjury for making a false statement to a public official, that the debtor defaulted in payment of the debt, and that the holder repossessed the motor vehicle or trailer either by legal process or in accordance with the terms of the contract, and the specific address where the vehicle or trailer is held. Such affidavit shall also state that the lienholder has the written consent from all owners or lienholders of record to repossess the vehicle or has provided all the owners or lienholders with written notice of the repossession.

2. On a motor vehicle or trailer, the lienholder shall first give:

(1) Ten days' written notice by first class United States mail postage prepaid to each of the owners and other lienholders, if any, of the motor vehicle or trailer at each of their last mailing addresses as shown by the last prior certificate of ownership, if any issued [on the motor vehicle or trailer], **or the most recent address on the lienholder's records**, that an application for a repossessed title will be made; **or**

(2) **The lienholder may, ten days prior to applying for a repossession title, include the information in the above notice in the appropriate uniform commercial code notice under sections 400.9-613 or 400.9-614, RSMo. Such alternative notice to all owners and lienholders shall be valid and enforceable under both the uniform commercial code and this section, provided it otherwise complies with the provisions of the uniform commercial code.**

[2.] **3.** Upon the holder's presentation of the papers **required by subsection 1 of this section** and the payment of a fee of ten dollars, the director of revenue, if he is satisfied with the genuineness of the papers, shall issue and deliver to the holder a certificate of ownership which shall be in its usual form except it shall be clearly captioned "Repossession Title". Each repossessed title so issued shall, for all purposes, be treated as an original certificate of ownership and shall supersede the outstanding certificate of ownership, if any, and duplicates thereof, if any, on the motor vehicle or trailer, all of which shall become null and void.

[3.] **4.** In any case where there is no certificate of ownership or duplicate thereof outstanding in the name of the debtor on the repossessed motor vehicle or trailer, the director of revenue shall issue a repossessed title to the holder and shall proceed to collect all unpaid fees, taxes, charges and penalties from the debtor as provided in section 301.190.

[4.] **5.** The director of revenue may prescribe rules and regulations for the effective administration of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become

effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

306.435. REPOSSESSED VESSELS, MOTORBOATS AND OUTBOARD MOTORS, CERTIFICATE OF TITLE — APPLICATION, PROCEDURE, FEE, FORM OF — NOTICE — ISSUED, WHEN — DIRECTOR OF REVENUE, DUTIES, RULEMAKING AUTHORITY. — 1. When the holder of any indebtedness secured by a security agreement or other contract for security covering an outboard motor, motorboat, vessel, or watercraft **who has a notice of lien on file with the director of revenue** repossesses the outboard motor, motorboat, vessel, or watercraft either by legal process or in accordance with the terms of a contract authorizing the repossession of the outboard motor, motorboat, vessel, or watercraft without legal process, the holder may obtain a certificate of [title] **ownership** from the director of revenue upon presentation of:

(1) An application[, which shall be upon a blank] form furnished by the director of revenue [and] **which** shall contain [the] **a** full description of the outboard motor, motorboat, vessel, or watercraft and the manufacturer's or other identifying number;

(2) **A notice of lien receipt or the original certificate of ownership reflecting the holder's lien; and**

(3) An affidavit of the holder, **certified under penalties of perjury for making a false statement to a public official**, that the debtor defaulted in payment of the debt, and that the holder repossessed the outboard motor, motorboat, vessel, or watercraft either by legal process or in accordance with the terms of the contract, and the specific address where the outboard motor, motorboat, vessel, or watercraft is held[]; and

(3) The original, or a conformed or photostatic copy of the original, of the security agreement or other contract for security and the instrument evidencing the indebtedness secured by the security agreement or other contract for security. The director may, by regulation, prescribe for the inclusion in either or both the application or affidavit required by this subsection any other information that he, from time to time, deems necessary or advisable, and may prescribe that the affidavit required by this subsection be part of the application]. **Such affidavit shall also state that the lienholder has the written consent from all owners or lienholders of record to repossess the outboard motor, motorboat, vessel, or watercraft or has provided all the owners or lienholders with written notice of the repossession.**

2. **On an outboard motor, motorboat, vessel, or watercraft, the lienholder shall first give:**

(1) **Ten days' written notice by first class United States mail, postage prepaid, to each of the owners and other lienholders, if any, of the outboard motor, motorboat, vessel, or watercraft at each of their last mailing addresses as shown by the last prior certificate of ownership, if any issued, or the most recent address on the lienholder's records, that an application for a repossessed title will be made; or**

(2) **The lienholder may, ten days prior to applying for a repossession title, include the information in the above notice in the appropriate uniform commercial code notice under sections 400.9-613 or 400.9-614, RSMo. Such alternative notice to all owners and lienholders shall be valid and enforceable under both the uniform commercial code and this section, provided it otherwise complies with the provisions of the uniform commercial code.**

3. Upon the holder's presentation of the papers required by subsection 1 of this section and the payment of a fee of ten dollars, the director of revenue, if he is satisfied with the genuineness of the papers, shall issue and deliver to the holder a certificate of title which shall be in its usual form except it shall be clearly captioned "Repossessed Title"[]; except that, unless the application

is accompanied by the written consent, acknowledged before an officer authorized to take acknowledgments, of the owners and other lienholders, if any, of the outboard motor, motorboat, vessel, or watercraft as shown by the last prior certificate of title or ownership, if any, issued on the outboard motor, motorboat, vessel, or watercraft, for the issuance of a repossessed title to the applicant, no such repossessed title may be issued by the director of revenue unless the director shall first give ten days' written notice by first class United States mail postage prepared to each of the owners and other lienholders, if any, of the outboard motor, motorboat, vessel, or watercraft at each of their last mailing addresses as shown by the last prior certificate of title or ownership, if any, issued on the outboard motor, motorboat, vessel, or watercraft, that an application for a repossessed title has been made and the date the repossessed title will be issued, which notice shall be accompanied by a copy, photostatic or otherwise, of the application and affidavit. The application for repossessed title may be withdrawn by the applicant at any time before the granting thereof]. Each repossessed title so issued shall, for all purposes, be treated as an original certificate of [title] **ownership** and shall supersede the outstanding certificate of [title or] ownership, if any, and duplicates thereof, if any, on the outboard motor, motorboat, vessel, or watercraft, all of which shall become null and void.

[3.] **4.** In any case where there is no certificate of [title or] ownership, or duplicate thereof, outstanding in the name of the debtor on the repossessed outboard motor, motorboat, vessel, or watercraft, the director of revenue shall issue a repossessed title to the holder [upon the payment of] **and shall proceed to collect** all unpaid fees, taxes, charges and penalties from the debtor as provided in sections 306.015, 306.030, 306.530 and 306.535, in addition to the fee specified in subsection 2 of this section.

5. The director of revenue may prescribe rules and regulations for the effective administration of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

361.711. SURETY BOND OR IRREVOCABLE LETTER OF CREDIT REQUIRED COSTS, AMOUNT, SPECIAL EXAMINATIONS. — Each application for a license shall be accompanied by a corporate surety bond in the principal sum of [twenty-five] **one hundred** thousand dollars. The bond shall be in form satisfactory to the director and shall be issued by a bonding company or insurance company authorized to do business in this state, to secure the faithful performance of the obligations of the applicant and the agents and subagents of the applicant with respect to the receipt, transmission, and payment of money in connection with the sale or issuance of checks **and also to pay the costs incurred by the division to remedy any breach of the obligations of the applicant subject to the bond or to pay examination costs of the division owed and not paid by the applicant.** Upon license renewal, the required amount of bond shall be as follows:

(1) For all licensees selling payment instruments or stored value cards, five times the high outstanding balance from the previous year with a minimum of one hundred thousand dollars and a maximum of one million dollars;

(2) For all licensees receiving money for transmission, five times the greatest amount transmitted in a single day during the previous year with a minimum of one hundred thousand dollars and a maximum of one million dollars.

If in the opinion of the director the bond shall at any time appear to be inadequate, insecure, exhausted, or otherwise doubtful, additional bond in form and with surety satisfactory to the director shall be filed within fifteen days after notice of the requirement is given to the licensee by the director. An applicant or licensee may, in lieu of filing any bond required under this section, provide the director with an irrevocable letter of credit, as defined in section 400.5-103, RSMo, issued by any state or federal financial institution. **Whenever in the director's judgment it is necessary or expedient, the director may perform a special examination of any person licensed under sections 361.700 to 361.727 with all authority under section 361.160 as though the licensee were a bank. The cost of such examination shall be paid by the licensee.**

361.715. LICENSE ISSUED UPON INVESTIGATION, WHEN — FEE — CHARGE FOR APPLICATIONS TO AMEND AND REISSUE. — 1. Upon the filing of the application, the filing of a certified audit, the [payments] **payment** of the investigation fee and the approval by the director of the necessary bond, the director **shall cause, investigate, and determine whether the character, responsibility, and general fitness of the principals of the applicant or any affiliates are such as to command confidence and warrant belief that the business of the applicant will be conducted honestly and efficiently and that the applicant is in compliance with all other applicable state and federal laws. If satisfied, the director** shall issue to the applicant a license pursuant to the provisions of sections 361.700 to 361.727. **In processing a renewal license, the director shall require the same information and follow the same procedures described in this subsection.**

2. Each licensee shall pay to the director [within five days after] **before** the issuance of the license, and annually thereafter on or before April fifteenth of each year, a license fee of one hundred dollars.

3. **The director may assess a reasonable charge, not to exceed one hundred dollars, for any application to amend and reissue an existing license.**

362.078. INDUSTRIAL LOAN COMPANIES AND BANKS PROHIBITED FROM MAINTAINING FACILITIES FOR BANKING PURPOSES, DEFINITIONS. — Notwithstanding any other provision of law to the contrary, an industrial loan company or industrial bank is prohibited from establishing or maintaining any deposit production office, loan production office, or one or more bank branches, for the purpose of conducting any banking business within this state, whether by de novo charter, branching, or merger with another institution. As used in this section, the terms "industrial loan company" and "industrial bank" include any company chartered under the laws of any state that:

- (1) Is insured or regulated by the Federal Deposit Insurance Corporation;
- (2) Engages in one or more banking activities; and
- (3) Is owned, directly or indirectly, by a commercial entity that is not a bank holding company or a financial holding company subject to regulation under the Federal Bank Holding Company Act of 1956.

362.275. MONTHLY MEETING OF BOARD — REVIEW OF CERTAIN TRANSACTIONS — UNANIMOUS CONSENT AGREEMENTS PERMITTED, WHEN. — 1. The board of directors of every bank and trust company organized or doing business pursuant to this chapter shall hold a regular meeting at least once each month, or, upon application to and acceptance by the director of finance, at such other times, not less frequently than once each calendar quarter as the director of finance shall approve, which approval may be rescinded at any time. There shall be submitted to the meeting a list giving the aggregate of loans, discounts, acceptances and advances, including overdrafts, to each individual, partnership, corporation or person whose liability to the bank or trust company has been created, extended, renewed or increased since the cut-off date

prior to the regular meeting by more than an amount to be determined by the board of directors, which minimum amount shall not exceed five percent of the bank's legal loan limit, except the minimum amount shall in no case be less than ten thousand dollars[, and]; a second list of the aggregate indebtedness of each borrower whose aggregate indebtedness exceeds five times such minimum amount, except the aggregate indebtedness shall in no case be less than fifty thousand dollars; [and] a third list showing all paper past due thirty days or more **or alternatively, the third list shall report the total past due ratio for loans thirty days or more past due, nonaccrual loans divided by total loans, and a listing of past due loans in excess of the minimum amount to be determined by the board of directors, which minimum amount shall not exceed five percent of the bank's legal loan limit, except the minimum amount shall in no case be less than ten thousand dollars;** and a fourth list showing the aggregate of the then existing indebtedness and liability to the bank or trust company of each of the directors, officers, and employees thereof. The information called for in the second, third, and fourth lists shall be submitted as of the date of the regular meeting or as of a reasonable date prior thereto. [If there is collateral to the indebtedness, it shall be described as of the date of the lists.] No bills payable shall be made, and no bills shall be rediscounted by the bank or trust company except with the consent or ratification of the board of directors; provided, however, that if the bank or trust company is a member of the federal reserve system, rediscounts may be made to it by the officers in accordance with its rules, a list of all rediscounts to be submitted to the next regular meeting of the board. The director of finance may require, by order, that the board of directors of a bank or trust company approve or disapprove every purchase or sale of securities and every discount, loan, acceptance, renewal or other advance including every overdraft over an amount to be specified in the director's order and may also require that the board of directors review, at each monthly meeting, a list of the aggregate indebtedness of each borrower whose aggregate indebtedness exceeds an amount to be specified in the director's order. The minutes of the meeting shall indicate the compliance with the requirements of this section. Furthermore, the debtor's identity on the information required in this subsection may be masked by code to conceal the actual debtor's identity only for information mailed to or otherwise provided directors who are not physically present at the board meeting. The code used shall be revealed to all directors at the beginning of each board meeting for which this procedure is used.

2. For any issue in need of immediate action, the board of directors or the executive committee of the board as defined in section 362.253 may enter into a unanimous consent agreement as permitted by subsection 2 of section 351.340, RSMo. Such consent may be communicated by facsimile transmission or by other authenticated record, separately by each director, provided each consent is signed by the director and the bank has no indication such signature is not the director's valid consent. When the bank or trust company has received unanimous consent from the board or executive committee, the action voted on shall be considered approved.

362.445. PROCESS DEFINED — DIRECTOR OF FINANCE TO ACCEPT SERVICE OF PROCESS, WHEN — FEE. — 1. The term "process", when used in this section, shall include any writ, summons, petition, or order whereby any suit, action, or proceeding shall be commenced.

2. Any state or federally chartered bank, trust company, or thrift institution may be served with process according to the Missouri Rules of Civil Procedure describing service of process for corporations.

3. Any state or federally chartered bank, trust company, or thrift institution may appoint a Missouri service agent and register the appointment with the director of finance who will maintain a record of all such appointments for public reference.

4. Whenever pursuant to [any provision] express provisions of this chapter, the director shall have been duly appointed attorney to receive service of process for any foreign corporation or out-of-state bank or trust company, he or she shall forthwith forward by mail, postage

prepaid, a copy of every process served upon him **or her** directed to the president or secretary of such corporation, at its last known post-office address.

[2.] **5.** For each copy of process the director of revenue shall collect the sum of [two] **ten** dollars, which shall be paid by the plaintiff or moving party at the time of such service, to be recovered by [him] **the plaintiff** as part of [his] **the plaintiff's** taxable disbursement if he **or she** succeeds in his **or her** suit or proceeding.

[3. The term "process", when used in this section, shall include any writ, summons, petition or order whereby any suit, action or proceeding shall be commenced.]

404.051. POWERS OF CUSTODIAN, LIMITATION — TERMINATION OF CUSTODIANSHIP, WHEN, PROCEDURE — DEGREE OF CARE REQUIRED FOR CUSTODIAL PROPERTY. — 1. The custodian shall collect, hold, maintain, manage, invest and reinvest the custodial property. The custodian may accept a transfer of additional property for the same minor into the custodianship and may consolidate into a single custodianship custodial property received for the same minor from multiple transfers or transferors.

2. The custodian may deliver, pay over to the minor for expenditure by the minor, or expend for the minor's benefit, so much of the custodial property as the custodian determines advisable for the use and benefit of the minor, without court order and without regard to the duty or ability of the custodian in the custodian's individual capacity or of any other person to support the minor, or any other income or property of the minor.

3. Upon the petition of a parent, guardian or conservator of a minor, an adult member of the minor's family, any person interested in the welfare of the minor, or of the minor if the minor has attained the age of fourteen years, the court may order the custodian to expend or to pay over to the minor or the minor's parent, guardian or conservator so much of the custodial property as the court determines advisable for the use and benefit of the minor.

4. Any delivery, payment or expenditure pursuant to subsections 2 and 3 of this section is in addition to, not in substitution for, and does not affect, the obligation of any person to support the minor.

5. (1) To the extent that the custodial property has not been expended, the custodian shall deliver the custodial property in an appropriate manner, free of the custodianship, as follows:

(a) To the minor on attaining the age of twenty-one years, or on attaining the age of eighteen years for custodial property created by a transfer of property from a person other than a donor and the minor requests the property; or

(b) On the minor's death, to the minor's estate.

(2) If the custodian does not deliver the custodial property to the minor or the minor's estate as prescribed in subdivision (1) of this subsection, the minor or the minor's personal representative may petition the court to declare the custodianship terminated and to order delivery of the custodial property to the minor or to the minor's estate free of the custodianship.

(3) To the extent the custodial property is real property, a conveyance and delivery of the real property by the minor after attaining the age at which the minor is entitled to the property free of the custodianship, or by the minor's heirs, or by the minor's personal representative, shall terminate the custodian's powers, duties and rights with respect to the real property.

(4) If the minor is an incapacitated person at the time the minor would otherwise be entitled to receive the custodial property free of the custodianship, the custodian shall deliver the custodial property to the incapacitated person's conservator. If the incapacitated person has no conservator, the custodian may transfer the custodial property to any adult person or financial institution, including the custodian, as personal custodian for the incapacitated person under any law providing for custodianship of property for incapacitated adult persons.

6. The custodian is under a duty to act in the interest of the minor and to avoid conflicts of interest that impair the custodian's ability to so act. In dealing with the custodial property, the custodian shall observe the degree of care that would be observed by a prudent person dealing with the property and conducting the affairs of another, except that all investments made on or

after August 28, 1998, shall be in accordance with the provisions of the Missouri prudent investor act, sections [456.900 to 456.913] **469.900 to 469.913**, RSMo. The custodian is not limited by any other statute restricting investments or expenditures by fiduciaries. If the custodian has special skills or is named custodian on the basis of representations of special skills or expertise, the custodian is under a duty to use those skills. The custodian, in the custodian's discretion and without liability to the minor or the minor's estate, may retain any custodial property received under sections 404.005 to 404.094, and may hold money or securities in the financial institution or brokerage company to which the property was delivered by the transferor.

7. The custodian may invest in and pay premiums out of custodial property for life or endowment insurance policies on the life of the minor or the life of another person in whom the minor has an insurable interest, provided the insurance proceeds will be distributed on the death of the insured life to the minor, the minor's estate or the custodian in the custodian's representative capacity.

8. Subject to the degree of care prescribed in subsection 6 of this section, the custodian, acting in the capacity of custodian for the benefit of the minor, has all rights, power and authority over the custodial property that unmarried, nonincapacitated adult owners have over their own property, except the power to make a gift of the minor's property unless the gift to be made is approved by a court.

9. The custodian at all times shall keep custodial property separate and distinct from all other property in a manner to identify it clearly as custodial property of the minor. Custodial property consisting of an undivided interest in property is sufficiently separate and distinct if the custodian's interest in the property is held as a tenant in common with the other owners of the property and the minor's proportional interest in the property is fixed. Custodial property is sufficiently so identified if it is held in the name of the custodian in the manner prescribed in section 404.707.

10. The custodian may establish checking, savings or other similar accounts with financial institutions and brokers whereby both the custodian and the minor may withdraw money from the account or draw checks against the account. Money withdrawn from an account or checks written against an account by the minor shall be treated as a delivery of custodial property from the custodian to the minor.

11. Subject to the degree of care prescribed in subsection 6 of this section, the custodian, acting in the capacity of custodian and for the benefit of the minor, may borrow money, lend money, acquire by lease the use of property for the minor, lease custodial property and enter into contracts under which the performance required by such agreements may extend beyond the date the custodianship terminates. The custodian shall hold property that is borrowed or leased for the minor as custodial property in the name of the custodian in the manner prescribed in section 404.047.

12. The custodian shall keep records of all transactions with respect to the custodial property, including information necessary for preparation of the minor's tax returns, and make them available for inspection at reasonable intervals by a parent, the minor if the minor has attained the age of fourteen years, an adult member of the minor's family if the minor has no living parent, and a legal representative of the minor.

13. The minor's custodian may comply with an agreement with a transferor of property to the minor, including an agreement respecting investment objectives, expenses, compensation, resignation and naming of successor custodians, to the extent that such agreement does not conflict with the custodian's obligations to the minor under sections 404.005 to 404.094.

404.550. DUTIES AND POWERS OF PERSONAL CUSTODIAN, DIRECTIONS OF BENEFICIARY, COURT'S POWERS, CONTRACT WITH BENEFICIARY. — 1. The personal custodian shall collect, hold, maintain, manage, invest and reinvest the custodial property. The personal custodian may accept a transfer of additional property for the same beneficiary into the personal custodianship

and may consolidate into a single custodianship custodial property received for the same beneficiary from multiple transfers or transferors.

2. The personal custodian shall deliver, pay over to the beneficiary for expenditure by the beneficiary or expend for the beneficiary's benefit, so much of the custodial property as the beneficiary may from time to time direct. If the beneficiary is an incapacitated person, the personal custodian may deliver, pay over to the beneficiary for expenditure by the beneficiary or expend for the beneficiary's benefit, so much of the custodial property as the personal custodian determines advisable for the use and benefit of the beneficiary and those members of the beneficiary's family who are legally entitled to support by the beneficiary or who were supported by the beneficiary at the time the beneficiary became incapacitated, without court order and without regard to the duty or ability of the personal custodian in the personal custodian's individual capacity or of any other person to support the beneficiary, or any other income or property of the beneficiary.

3. (1) Upon the petition of the beneficiary, guardian or conservator of an incapacitated beneficiary, an adult member of a beneficiary's family or any person interested in the welfare of the beneficiary, the court may order the personal custodian to expend or to pay over to the beneficiary or the beneficiary's guardian or conservator so much of the custodial property as the court determines advisable for the use and benefit of the beneficiary.

(2) Upon petition of a personal custodian, the beneficiary, an adult member of the beneficiary's family or any person interested in the welfare of the beneficiary, the probate division of the circuit court shall determine and declare whether the beneficiary is a disabled or incapacitated person.

4. Any delivery, payment or expenditure under subsections 2 and 3 of this section is in addition to, not in substitution for, and does not affect the obligation of any person to support the incapacitated beneficiary or the incapacitated beneficiary's dependents.

5. The personal custodian is under a duty to act in the interest of the beneficiary and to avoid conflicts of interest that impair the personal custodian's ability to so act. In dealing with the custodial property, the personal custodian shall follow the investment and other directions of a beneficiary who is not incapacitated and shall observe the degree of care that would be observed by a prudent person dealing with the property and conducting the affairs of another, except that all investments made on or after August 28, 1998, shall be in accordance with the provisions of the Missouri prudent investor act, sections [456.900 to 456.913] **469.900 to 469.913**, RSMo. The personal custodian is not limited by any other statute restricting investments or expenditures by fiduciaries. If the personal custodian has special skills or is named personal custodian on the basis of representation of special skills or expertise, the custodian is under a duty to use those skills. The personal custodian, in the custodian's discretion and without liability to the beneficiary or the beneficiary's estate, may retain any custodial property received under sections 404.400 to 404.650, and may hold money or securities in the financial institution or brokerage company to which the property was delivered by the transferor.

6. The personal custodian may invest in and pay premiums out of custodial property for life or endowment insurance policies on the life of the beneficiary or the life of another person in whom the beneficiary has an insurable interest, provided the insurance proceeds will be distributed on the death of the insured life to the beneficiary, the persons designated by an adult nonincapacitated beneficiary, the beneficiary's estate or the personal custodian in the personal custodian's representative capacity.

7. Subject to the degree of care prescribed in subsection 5 of this section, the personal custodian, acting in the capacity of personal custodian for the benefit of the beneficiary, has all rights, power and authority over the custodial property that unmarried, nonincapacitated adult owners have over their own property, except the power to make a gift of the beneficiary's property (i) unless granted such power by a nonincapacitated beneficiary in a writing signed and dated, and acknowledged or proved and certified in the manner provided by law for conveyances

of real estate, or (ii) unless the gift to be made is approved by a court under section 475.094, RSMo.

8. The personal custodian at all times shall keep custodial property separate and distinct from all other property in a manner to identify it clearly as custodial property of the beneficiary. Custodial property consisting of an undivided interest in property is sufficiently separate and distinct if the personal custodian's interest in the property is held as a tenant in common with the other owners of the property and the beneficiary's proportional interest in the property is fixed. Custodial property is sufficiently so identified if it is held in the name of the personal custodian in the manner prescribed in section 404.540.

9. The personal custodian may establish checking, savings or other similar accounts with financial institutions and brokers whereby both the personal custodian and the beneficiary may withdraw money from the account or draw or issue checks or drafts against the account. Money withdrawn from an account or checks written against an account by the beneficiary shall be treated as a delivery of custodial property from the personal custodian to the beneficiary.

10. Subject to the degree of care prescribed in subsection 5 of this section, the personal custodian, acting in the capacity of personal custodian and for the benefit of the beneficiary, may borrow money, lend money, acquire by lease the use of property for the beneficiary, lease custodial property and enter into contracts under which the performance required by such agreements may extend beyond the date the personal custodianship terminates. The personal custodian shall hold property that is borrowed or leased for the beneficiary as custodial property in the name of the personal custodian in the manner prescribed in section 404.540.

11. The personal custodian shall keep records of all transactions with respect to the custodial property, including information necessary for preparation of the beneficiary's tax returns, and make them available for inspection at reasonable intervals by the beneficiary, an adult member of the beneficiary's family if the beneficiary is incapacitated, and a legal representative of the beneficiary.

12. The power, authority, duties and responsibilities of a personal custodian, as provided in sections 404.400 to 404.650, may be modified by the provisions of a written agreement between the transferor or beneficiary and personal custodian.

404.714. DUTIES OF ATTORNEY IN FACT. — 1. An attorney in fact who elects to act under a power of attorney is under a duty to act in the interest of the principal and to avoid conflicts of interest that impair the ability of the attorney in fact so to act. A person who is appointed an attorney in fact under a power of attorney, either durable or not durable, who undertakes to exercise the authority conferred in the power of attorney, has a fiduciary obligation to exercise the powers conferred in the best interests of the principal, and to avoid self-dealing and conflicts of interest, as in the case of a trustee with respect to the trustee's beneficiary or beneficiaries; and in the absence of explicit authorization, the attorney in fact shall exercise a high degree of care in maintaining, without modification, any estate plan which the principal may have in place, including, but not limited to, arrangements made by the principal for disposition of assets at death through beneficiary designations, ownership by joint tenancy or tenancy by the entirety, trust arrangements or by will or codicil. Unless otherwise provided in the power of attorney or in a separate agreement between the principal and attorney in fact, an attorney in fact who elects to act shall exercise the authority granted in a power of attorney with that degree of care that would be observed by a prudent person dealing with the property and conducting the affairs of another, except that all investments made on or after August 28, 1998, shall be in accordance with the provisions of the Missouri prudent investor act, sections [456.900 to 456.913] **469.900 to 469.913**, RSMo. If the attorney in fact has special skills or was appointed attorney in fact on the basis of representations of special skills or expertise, the attorney in fact has a duty to use those skills in the principal's behalf.

2. On matters undertaken or to be undertaken in the principal's behalf and to the extent reasonably possible under the circumstances, an attorney in fact has a duty to keep in regular

contact with the principal, to communicate with the principal and to obtain and follow the instructions of the principal.

3. If the principal is not available to communicate in person with the attorney in fact because:

(1) The principal is missing under such circumstances that it is not known whether the principal is alive or dead; or

(2) The principal is captured, interned, besieged or held hostage or prisoner in a foreign country;

the authority of the attorney in fact under a power of attorney, whether durable or not, shall not terminate and the attorney in fact may continue to exercise the authority conferred, faithfully and in the best interests of the principal, until the principal returns or is publicly declared dead by a governmental agency, domestic or foreign, or is presumed dead because of continuous absence of five years as provided in section 472.290, RSMo 1986, or a similar law of the place of the last known domicile of the person whose absence is in question.

4. If, following execution of a power of attorney, the principal is absent or becomes wholly or partially disabled or incapacitated, or if there is a question with regard to the ability or capacity of the principal to give instructions to and supervise the acts and transactions of the attorney in fact, an attorney in fact exercising authority under a power of attorney, either durable or not durable, may consult with any person or persons previously designated by the principal for such purpose, and may also consult with and obtain information from the principal's spouse, physician, attorney, accountant, any member of the principal's family or other person, corporation or government agency with respect to matters to be undertaken in the principal's behalf and affecting the principal's personal affairs, welfare, family, property and business interests.

5. If, following execution of a durable power of attorney, a court appoints a legal representative for the principal, the attorney in fact shall follow the instructions of the court or of the legal representative, and shall communicate with and be accountable to the principal's guardian on matters affecting the principal's personal welfare and to the principal's conservator on matters affecting the principal's property and business interests, to the extent that the responsibilities of the guardian or conservator and the authority of the attorney in fact involve the same subject matter.

6. The authority of an attorney in fact, under a power of attorney that is not durable, is suspended during any period that the principal is disabled or incapacitated to the extent that the principal is unable to receive or evaluate information or to communicate decisions with respect to the subject of the power of attorney; and an attorney in fact exercising authority under a power of attorney that is not durable shall not act in the principal's behalf during any period that the attorney in fact knows the principal is so disabled or incapacitated.

7. An attorney in fact shall exercise authority granted by the principal in accordance with the instrument setting forth the power of attorney, any modification made therein by the principal or the principal's legal representative or a court, and the oral and written instructions of the principal, or the written instructions of the principal's legal representative or a court.

8. An attorney in fact may be instructed in a power of attorney that the authority granted shall not be exercised until, or shall terminate on, the happening of a future event, condition or contingency, as determined in a manner prescribed in the instrument.

9. On the death of the principal, the attorney in fact shall follow the instructions of the court, if any, having jurisdiction over the estate of the principal, or any part thereof, and shall communicate with and be accountable to the principal's personal representative, or if none, the principal's successors; and the attorney in fact shall promptly deliver to and put in the possession and control of the principal's personal representative or successors, any property of the principal and copies of any records of the attorney in fact relating to transactions undertaken in the principal's behalf that are deemed by the personal representative or the court to be necessary or helpful in the administration of the decedent's estate.

10. If an attorney in fact has a property or contract interest in the subject of the power of attorney or the authority of the attorney in fact is otherwise coupled with an interest in a person other than the principal, this section does not impose any duties on the attorney in fact that would conflict or be inconsistent with that interest.

408.555. ACCELERATION, REPOSSESSION AND CANCELLATION RESTRICTED — REQUIRED PROCEDURES — BORROWER'S RIGHT TO CURE. — 1. Except as provided in subsection 2 of this section, after a default consisting only of the borrower's failure to make a required payment, a lender, because of that default, may neither accelerate maturity of the unpaid balance nor take possession of or otherwise enforce a security interest until twenty days after a notice of the borrower's right to cure is given both to the borrower and to all cosigners on the credit transaction nor, with respect to an insurance premium loan, give notice of cancellation until thirteen days after a notice of the borrower's right to cure is given; notice shall not be given prior to default. Until expiration of the minimum applicable period after the notice is given, the borrower or cosigner may cure all defaults consisting of a failure to make the required payment by tendering the amount of all unpaid sums due at the time of the tender, without acceleration, plus any unpaid delinquency or deferral charges. Cure restores the borrower to his rights as though the default had not occurred.

2. This section does not prohibit a borrower from voluntarily surrendering possession of property which is collateral and the lender from thereafter accelerating maturity of the loan and enforcing the note or loan and his security interest in the property at any time after default. If the lender has not already given the notice described in subsection 2 or 3 of section 408.554, he shall upon voluntary surrender of the collateral notify the borrower either personally or by mail at the borrower's last known address that he may owe additional money after the money received from the sale of the collateral is deducted from the total amount owed.

3. No lender is bound by the provisions of subsection 1 of this section if default by the same borrower in connection with the same credit transaction with the same lender has occurred twice notwithstanding the cure of such defaults **or three times in the case of a second mortgage loan** except as provided in subsection 4 of this section.

4. Default by a borrower on a second mortgage loan may be cured by tendering the current obligation of the borrower at any time prior to the completion of the judicial or extrajudicial proceedings for foreclosure upon such real estate. For the purposes of this section, "current obligation of the debtor" means the aggregate of all installments scheduled to be due at the time of the tender, **late charges otherwise permitted by law, and expenses of foreclosures actually incurred by the lender for initiating a bona fide foreclosure**, notwithstanding any contractual provision for the acceleration of installment payments. A lender may take no steps to enforce a security interest in real property pursuant to a second mortgage loan until thirty days after notice of the borrower's right to cure is given; notice shall not be given prior to default. Cure restores the borrower's rights under the agreement as though the default had not occurred, [and any foreclosure in violation of this section is a class B misdemeanor] **except that only three defaults are permitted**. This section shall not affect the debtor's right otherwise to redeem such real property under any other provision of law.

456.1-103. DEFINITIONS.— In sections 456.1-101 to 456.11-1106:

(1) "Action," with respect to an act of a trustee, includes a failure to act.

(2) **"Ascertainable standard" means a standard relating to an individual's health, education, support, or maintenance within the meaning of Section 2041(b)(1)(A) or Section 2541(c)(1) of the Internal Revenue Code.**

(3) "Beneficiary" means a person that:

(a) has a present or future beneficial interest in a trust, vested or contingent; or

(b) in a capacity other than that of trustee, holds a power of appointment over trust property.

[(3)] (4) "Charitable trust" means a trust, or portion of a trust, created for a charitable purpose described in subsection 1 of section 456.4-405.

[(4)] (5) "Conservator" means a person described in subdivision (3) of section 475.010, RSMo. This term does not include a conservator ad litem.

[(5)] (6) "Conservator ad litem" means a person appointed by the court pursuant to the provisions of section 475.097, RSMo.

[(6)] (7) "Environmental law" means a federal, state, or local law, rule, regulation, or ordinance relating to protection of the environment.

[(7)] (8) "Financial institution" means a non-foreign bank, savings and loan or trust company chartered, regulated and supervised by the Missouri division of finance, the office of the comptroller of the currency, the office of thrift supervision, the National Credit Union Administration, or the Missouri division of credit union supervision. The term "non-foreign bank" shall mean a bank that is not a foreign bank within the meaning of subdivision (1) of section 361.005, RSMo.

[(8)] (9) "Guardian" means a person described in subdivision (6) of section 475.010, RSMo. The term does not include a guardian ad litem.

[(9)] (10) "Interested persons" include beneficiaries and any others having a property right in or claim against a trust estate which may be affected by a judicial proceeding. It also includes fiduciaries and other persons representing interested persons. The meaning as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding.

[(10)] (11) "Interests of the beneficiaries" means the beneficial interests provided in the terms of the trust.

[(11)] (12) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as in effect on January 1, 2005, or as later amended.

[(12)] (13) "Jurisdiction," with respect to a geographic area, includes a state or country.

[(13)] (14) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity.

[(14)] (15) "Permissible distributee" means a beneficiary who is currently eligible to receive distributions of trust income or principal, whether mandatory or discretionary.

[(15)] (16) "Power of withdrawal" means a presently exercisable [general] power of [appointment other than a power exercisable only upon consent of the trustee or a person holding an adverse interest] **a beneficiary to withdraw assets from the trust without the consent of the trustee or any other person.**

[(16)] (17) "Principal place of administration" of a trust is the trustee's usual place of business where the records pertaining to the trust are kept, or the trustee's residence if the trustee has no such place of business, unless otherwise designated by the terms of the trust as provided in section 456.1-108. In the case of cotrustees, the principal place of administration is, in the following order of priority:

(a) The usual place of business of the corporate trustee if there is but one corporate cotrustee;

(b) The usual place of business or residence of the trustee who is a professional fiduciary if there is but one such trustee and no corporate cotrustee; or

(c) The usual place of business or residence of any of the cotrustees.

[(17)] (18) "Professional fiduciary" means an individual who represents himself or herself to the public as having specialized training, experience or skills in the administration of trusts.

[(18)] (19) "Property" means anything that may be the subject of ownership, whether real or personal, legal or equitable, or any interest therein.

[(19)] (20) "Qualified beneficiary" means a beneficiary who, on the date the beneficiary's qualification is determined:

- (a) is a permissible distributee;
- (b) would be a permissible distributee if the interests of the permissible distributees described in paragraph (a) of this subdivision terminated on that date; or
- (c) would be a permissible distributee if the trust terminated on that date.

[(20)] (21) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

[(21)] (22) "Revocable," as applied to a trust, means [revocable by the settlor] **that the settlor has the legal power to revoke the trust** without the consent of the trustee or a person holding an adverse interest, **regardless of whether the settlor has the mental capacity to do so in fact.**

[(22)] (23) "Settlor" means a person, including a testator, who creates, or contributes property to, a trust. If more than one person creates or contributes property to a trust, each person is a settlor of the portion of the trust property attributable to that person's contribution except to the extent another person has the power to revoke or withdraw that portion pursuant to the terms of the trust.

[(23)] (24) "Sign" means, with present intent to authenticate or adopt a record:

- (a) to execute or adopt a tangible symbol; or
- (b) to attach to or logically associate with the record an electronic sound, symbol, or process.

[(24)] (25) "Spendthrift provision" means a term of a trust which restrains either the voluntary or involuntary transfer or both the voluntary and involuntary transfer of a beneficiary's interest.

[(25)] (26) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band recognized by federal law or formally acknowledged by a state.

[(26)] (27) "Terms of a trust" means the manifestation of the settlor's intent regarding a trust's provisions as expressed in the trust instrument or as may be established by other evidence that would be admissible in a judicial proceeding.

[(27)] (28) "Trust instrument" means an instrument executed by the settlor that contains terms of the trust, including any amendments thereto.

[(28)] (29) "Trustee" includes an original, additional, and successor trustee, and a cotrustee.

456.1-105. DEFAULT AND MANDATORY RULES. — 1. Except as otherwise provided in the terms of the trust, sections 456.1-101 to 456.11-1106 govern the duties and powers of a trustee, relations among trustees, and the rights and interests of a beneficiary.

2. The terms of a trust prevail over any provision of sections 456.1-101 to 456.11-1106 except:

- (1) the requirements for creating a trust;
- (2) the duty of a trustee to act in good faith and in accordance with the purposes of the trust;
- (3) the requirement that a trust and its terms be for the benefit of its beneficiaries;
- (4) the power of the court to modify or terminate a trust under section 456.4-410, subsection 3 of section 456.4B-411, and sections 456.4-412 to 456.4-416;
- (5) the effect of a spendthrift provision and the rights of certain creditors and assignees to reach a trust as provided in sections 456.5-501 to 456.5-507;
- (6) the power of the court under section 456.7-702 to require, dispense with, or modify or terminate a bond;
- (7) the power of the court under subsection 2 of section 456.7-708 to adjust a trustee's compensation specified in the terms of the trust which is unreasonably low or high;
- (8) **subject to subsection 3 of this section, the duty of a trustee of an irrevocable trust to notify [the] each permissible [distributees of an irrevocable trust who have] distributee who**

has attained **the age of** twenty-one years [of age] of the existence of the trust and of [their] **that permissible distributee's** rights to request trustee's reports and other information reasonably related to the administration of the trust;

(9) the duty to respond to the request of a qualified beneficiary of an irrevocable trust for trustee's reports and other information reasonably related to the administration of [a] **the** trust;

(10) the effect of an exculpatory term under section 456.10-1008;

(11) the rights under sections 456.10-1010 to 456.10-1013 of a person other than a trustee or beneficiary;

(12) periods of limitation for commencing a judicial proceeding;

(13) the power of the court to take such action and exercise such jurisdiction as may be necessary in the interests of justice; and

(14) the venue for a judicial proceeding as provided in section 456.2-204.

3. For purposes of subdivision (8) of subsection 2 of this section, the settlor may designate by the terms of the trust one or more permissible distributees to receive notification of the existence of the trust and of the right to request trustee's reports and other information reasonably related to the administration of the trust in lieu of providing the notice, information or reports to any other permissible distributee who is an ancestor or lineal descendant of the designated permissible distributee.

456.1-110. OTHERS TREATED AS QUALIFIED BENEFICIARIES. — 1. A specified charitable organization or a person appointed to enforce a trust created for the care of an animal or another noncharitable purpose as provided in sections 456.4-408 or 456.4-409 has the rights of a qualified beneficiary under sections 456.1-101 to 456.11-1106.

2. Except with respect to [section 456.4B-411] **sections 456.1-108 and 456.4-411B**, the attorney general of this state has the rights of a qualified beneficiary with respect to an interest in a charitable trust having its principal place of administration in this state if:

(1) a specified charitable organization is not entitled to a distribution from such interest; and

(2) distributions from the interest are payable in a manner that, if payable to an identifiable charitable entity, would qualify that entity as a specified charitable organization.

3. In this section a "specified charitable organization" means an identifiable charitable entity, **the interest of which is not otherwise subject to any power of appointment or other power of termination**, that, on the date that entity's qualification is determined:

(a) is a permissible distributee;

(b) would be a permissible distributee if the interests of the permissible distributees terminated on that date; or

(c) would be a permissible distributee if the trust terminated on that date.

4. No provision of this section shall limit the authority of the attorney general of this state to supervise and control charitable organizations.

456.1-112. RULES OF CONSTRUCTION — INAPPLICABLE TO CERTAIN TRUSTS. — 1. If a settlor's marriage is dissolved or annulled, any beneficial terms of a trust in favor of the settlor's former spouse or any fiduciary appointment of the settlor's former spouse is revoked on the date the marriage is dissolved or annulled, whether or not the terms of the trust refer to marital status. The terms of the trust shall be given effect as if the former spouse had died immediately before the date the dissolution or annulment became final. This subsection shall also apply to any beneficial interest or fiduciary appointment in favor of a relative of the settlor's former spouse as if such relative were the former spouse.

2. Subsection 1 of this section does not apply to the terms of a trust that provide any beneficial interest or fiduciary appointment for a former spouse or a relative of a former spouse that was created after the marriage was dissolved or annulled, or that expressly states that marriage dissolution or annulment shall not affect the designation of a former spouse or relative of a former spouse as a beneficiary or a fiduciary of the trust.

3. A court may order or the settlor and the spouse may agree before, during, or after the marriage in a binding contract or settlement agreement that subsection 1 of this section does not apply to a beneficial interest or fiduciary appointment.

4. Any terms of a trust revoked solely by this section are revived by the settlor's remarriage to the former spouse or by a nullification of the marriage dissolution or annulment.

5. In this section, "a relative of the settlor's former spouse" means an individual who is related to the settlor's former spouse by blood, adoption or affinity and who, after the divorce or annulment, is not related to the settlor by blood, adoption or affinity.

6. The provisions of this section shall not apply to any trust for which a gift tax marital deduction has been claimed or allowed under Section 2523 of the Internal Revenue Code. The provisions of this section shall not apply in a manner that would result in either:

(a) a transfer to a trust being treated as an incomplete gift for federal gift tax purposes; or

(b) inclusion of assets of a trust in the gross estate of a settlor for federal estate tax purposes.

456.2-204. VENUE. — 1. Venue for judicial proceedings involving [the internal affairs of a] trust **administration** shall be:

(1) For a trust then registered in this state, in the probate division of the circuit court where the trust is registered; or

(2) For a trust not then registered in this state, in the probate division of the circuit court where the trust could properly be registered; or

(3) For a trust not then registered in this state and which cannot properly be registered in this state, in accordance with the rules of civil procedure.

2. Where a judicial proceeding under this chapter could be maintained in more than one place in this state, the court in which the proceeding is first commenced has the exclusive right to proceed.

3. If proceedings concerning the same trust are commenced in more than one court of this state, the court in which the proceeding was first commenced shall continue to hear the matter, and the other courts shall hold the matter in abeyance until the question of venue is decided, and if the court in which the proceeding was first commenced determines that venue is properly in another court, it shall transfer the proceeding to the other court.

4. If a court finds that in the interest of justice a proceeding or a file should be located in another court of this state, the court making the finding may transfer the proceeding or file to the other court.

456.3-301. REPRESENTATION, BASIC EFFECT — PROHIBITED, WHEN. — 1. Notice to a person who may represent and bind another person under sections 456.3-301 to 456.3-305 has the same effect as if notice were given directly to the other person.

2. The consent of a person who may represent and bind another person under sections 456.3-301 to 456.3-305 is binding on the person represented unless the person represented objects to the representation before the consent would otherwise have become effective.

3. Except as otherwise provided in sections 456.4A-411 and 456.6-602, a person who under sections 456.3-301 to 456.3-305 may represent a settlor who lacks capacity may receive notice and give a binding consent on the settlor's behalf.

4. A settlor may not represent and bind a beneficiary under sections 456.3-301 to 456.3-305 with respect to the termination or modification of a trust under section 456.4-411A.

456.3-304. REPRESENTATION BY PERSON HAVING SUBSTANTIALLY IDENTICAL INTEREST. — 1. Unless otherwise represented, a minor, incapacitated, or unborn individual, or a person whose identity or location is unknown and not reasonably ascertainable, may be represented by and bound by another having a substantially identical interest with respect to the particular question or dispute, but only to the extent there is no conflict of interest between the representative and the person represented **with respect to a particular question or dispute.**

2. **Unless otherwise represented, a beneficiary who is not a qualified beneficiary may be represented by and bound by a qualified beneficiary having a substantially identical interest with respect to the particular question or dispute, but only to the extent there is no conflict of interest with respect to the particular question or dispute between the representative and the person represented, in any court proceeding under subsection 2 of section 456.4-412, or in a nonjudicial settlement agreement entered into under section 456.1-111 in lieu of such a court proceeding.**

456.4-401. METHODS OF CREATING TRUST. — A trust may be created by:

- (1) transfer of property to another person as trustee during the settlor's lifetime or by will or other disposition taking effect upon the settlor's death;
- (2) declaration by the owner of property that the owner holds identifiable property as trustee;
- (3) exercise of a power of appointment in favor of a trustee; or
- (4) a court under section 475.092, 475.093, or 511.030, RSMo, **or 42 U.S.C. Section 1396p(d)(4).**

456.4-402. REQUIREMENTS FOR CREATION. — 1. Other than for a trust created by section 475.092, 475.093, or 511.030, RSMo, **or 42 U.S.C. Section 1396p(d)(4),** a trust is created only if:

- (1) the settlor has capacity to create a trust;
 - (2) the settlor indicates an intention to create the trust;
 - (3) the trust has a definite beneficiary or is:
 - (a) a charitable trust;
 - (b) a trust for the care of an animal, as provided in section 456.4-408; or
 - (c) a trust for a noncharitable purpose, as provided in section 456.4-409;
 - (4) the trustee has duties to perform; and
 - (5) the same person is not the sole trustee and sole beneficiary.
2. A beneficiary is definite if the beneficiary can be ascertained now or in the future, subject to any applicable rule against perpetuities.
3. A power in a trustee to select a beneficiary from an indefinite class is valid. If the power is not exercised within a reasonable time, the power fails and the property subject to the power passes to the persons who would have taken the property had the power not been conferred.

456.4-411A. MODIFICATION OR TERMINATION OF NONCHARITABLE IRREVOCABLE TRUST BY CONSENT, EXCEPTIONS. — 1. **Except for a trust established by a court under section 475.092, 475.093, 511.030, RSMo, or 42 U.S.C. Section 1396p(d)(4),** a noncharitable irrevocable trust may be modified or terminated upon consent of the settlor and all beneficiaries, without court approval, even if the modification or termination is inconsistent with a material purpose of the trust. A settlor's power to consent to a trust's termination or modification may be exercised by an agent under a power of attorney only to the extent expressly authorized by the power of attorney or the terms of the trust; by the settlor's conservator with the approval of the court supervising the conservatorship if an agent is not so authorized; or by the settlor's conservator ad litem with the approval of the court if an agent is not so authorized and a conservator has not been appointed.

2. Upon termination of a trust under subsection 1 of this section, the trustee shall distribute the trust property as agreed by the beneficiaries.

3. If not all of the beneficiaries consent to a proposed modification or termination of the trust under subsection 1 of this section, the modification or termination may be approved by the court if the court is satisfied that:

(1) if all of the beneficiaries had consented, the trust could have been modified or terminated under subsection 1 of this section; and

(2) the interests of a beneficiary who does not consent will be adequately protected.

456.4-411B. MODIFICATION OR TERMINATION OF NONCHARITABLE IRREVOCABLE TRUST BY CONSENT, APPLICABILITY. — 1. When all of the adult beneficiaries having the capacity to contract consent, the court may, upon finding that the interest of any nonconsenting beneficiary will be adequately protected, modify the terms of a noncharitable irrevocable trust so as to reduce or eliminate the interests of some beneficiaries and increase those of others, change the times or amounts of payments and distributions to beneficiaries, or provide for termination of the trust at a time earlier or later than that specified by its terms. The court may at any time upon its own motion appoint a representative pursuant to section 456.3-305 to represent a nonconsenting beneficiary. The court shall appoint such a representative upon the motion of any party, unless the court determines such an appointment is not appropriate under the circumstances.

2. Upon termination of a trust under subsection 1 of this section, the trustee shall distribute the trust property as directed by the court.

3. If a trust cannot be terminated or modified under subsection 1 of this section because not all adult beneficiaries having capacity to contract consent or the terms of the trust prevent such modification or termination, the modification or termination may be approved by the court if the court is satisfied that the interests of a beneficiary, other than the settlor, who does not consent will be adequately protected, modification or termination will benefit a living settlor who is also a beneficiary, and:

(1) in the case of a termination, the party seeking termination establishes that continuance of the trust is not necessary to achieve any material purpose of the trust; or

(2) in the case of a modification, the party seeking modification establishes that the modification is not inconsistent with a material purpose of the trust, and the modification is not specifically prohibited by the terms of the trust.

4. This section shall apply to trusts created **under trust instruments that become irrevocable** on or after January 1, 2005. The provisions of section 456.590 shall apply to all trusts **that were created under trust instruments that become irrevocable** prior to January 1, 2005.

456.5-501. RIGHTS OF BENEFICIARY'S CREDITOR OR ASSIGNEE, EXCEPTIONS. — **Except as otherwise provided in sections 456.5-506 to 456.5-507,** to the extent a beneficiary's interest is not [protected by] **subject to** a spendthrift provision, an assignee or a judgment creditor of the beneficiary may, without court order, reach the beneficiary's interest by attachment of present or future distributions to or for the benefit of the beneficiary or other means. The court may limit the award to such relief as is appropriate under the circumstances.

456.5-504. DISCRETIONARY TRUSTS, INTEREST NOT ENFORCEABLE, WHEN — APPLICABILITY — EFFECT OF STANDARD. — 1. [Except as otherwise provided in section 456.5-503, whether or not a trust contains a spendthrift provision, a creditor of a beneficiary may not compel a distribution that is subject to the trustee's discretion, even if:

(1) the discretion is expressed in the form of a standard of distribution; or

(2) the trustee has abused the discretion.] **A beneficiary's interest in a trust that is subject to the trustee's discretion does not constitute an interest in property or an**

enforceable right even if the discretion is expressed in the form of a standard of distribution or the beneficiary is then serving as a trustee or co-trustee. A creditor or other claimant may not attach present or future distributions from such an interest or right, obtain an order from a court forcing the judicial sale of the interest or compelling the trustee to make distributions, or reach the interest or right by any other means, even if the trustee has abused the trustee's discretion.

2. This section does not limit the right of a beneficiary to maintain a judicial proceeding against a trustee for an abuse of discretion or failure to comply with a standard for distribution.

3. This section applies whether or not an interest is subject to a spendthrift provision.

4. For purposes of this section, a beneficiary's interest in a trust is subject to the trustee's discretion if that interest does not constitute a mandatory distribution as defined in subsection 1 of section 456.5-506.

456.5-506. MANDATORY DISTRIBUTION DEFINED — OVERDUE DISTRIBUTION. — 1. As used in this section, "mandatory distribution" means a distribution of income or principal which the trustee is required to make to a beneficiary under the terms of the trust, including a distribution upon termination of the trust. The term does not include a distribution subject to the exercise of the trustee's discretion even if (1) the discretion is expressed in the form of a standard of distribution, or (2) the terms of the trust authorizing a distribution couple language of discretion with language of direction.

2. Whether or not a trust contains a spendthrift provision, a creditor or assignee of a beneficiary may reach a mandatory distribution of income or principal, including a distribution upon termination of the trust, if the trustee has not made the distribution to the beneficiary within a reasonable time after the required distribution date.

456.7-703. COTRUSTEES. — 1. Cotrustees shall act by majority decision.

2. If a vacancy occurs in a cotrusteeship, the remaining cotrustees may act for the trust.

3. A cotrustee must participate in the performance of a trustee's function unless the cotrustee is unavailable to perform the function because of absence, illness, disqualification under other law, or other temporary incapacity or the cotrustee has properly delegated the performance of the function to another trustee.

4. If a cotrustee is unavailable to perform duties because of absence, illness, disqualification under other law, or other temporary incapacity, and prompt action is necessary to achieve the purposes of the trust or to avoid injury to the trust property, the remaining cotrustee or a majority of the remaining cotrustees may act for the trust.

5. A trustee may [not] delegate to a cotrustee the performance of a function [the settlor reasonably expected the trustees to perform jointly] **in accordance with subsection 1 of section 456.8-807.** Unless a delegation was irrevocable, a trustee may revoke a delegation previously made.

6. Except as otherwise provided in subsection 7 of this section, a trustee who does not join in an action of another trustee is not liable for the action.

7. Each trustee shall exercise reasonable care to:

- (1) prevent a cotrustee from committing a serious breach of trust; and
- (2) compel a cotrustee to redress a serious breach of trust.

8. A dissenting trustee who joins in an action at the direction of the majority of the trustees and who notified any cotrustee of the dissent at or before the time of the action is not liable for the action unless the action is a serious breach of trust.

456.8-813. DUTY TO INFORM AND REPORT — INAPPLICABLE, WHEN. — 1. (1)

A trustee shall keep the qualified beneficiaries of the trust reasonably informed about the administration of the trust and of the material facts necessary for them to protect their interests.

A trustee shall be presumed to have fulfilled this duty if the trustee complies with the notice and information requirements prescribed in subsections 2 to 7 of this section.

(2) Unless unreasonable under the circumstances, a trustee shall promptly respond to a beneficiary's request for information related to the administration of the trust.

2. A trustee:

(1) upon request of a beneficiary, shall promptly furnish to the beneficiary a copy of the trust instrument;

(2) within 60 days after accepting a trusteeship, shall notify the qualified beneficiaries of the acceptance and of the trustee's name, address, and telephone number;

(3) within sixty days after the date the trustee acquires knowledge of the creation of an irrevocable trust, or the date the trustee acquires knowledge that a formerly revocable trust has become irrevocable, whether by the death of the settlor or otherwise, shall notify the qualified beneficiaries of the trust's existence, of the identity of the settlor or settlors, of the right to request a copy of the trust instrument, and of the right to a trustee's report as provided in subsection 3 of this section; and

(4) shall notify the qualified beneficiaries in advance of any change in the method or rate of the trustee's compensation. [Subdivisions (2) and (3) of this subsection do not apply to a trust that became irrevocable before January 1, 2005.]

3. A trustee shall send to the permissible distributees of trust income or principal, and to other beneficiaries who request it, at least annually and at the termination of the trust, a report of the trust property, liabilities, receipts, and disbursements, including the source and amount of the trustee's compensation, a listing of the trust assets and, if feasible, their respective market values. Upon a vacancy in a trusteeship, unless a cotrustee remains in office, a report must be sent to the qualified beneficiaries by the former trustee. A personal representative, conservator, or guardian may send the qualified beneficiaries a report on behalf of a deceased or incapacitated trustee.

4. A beneficiary may waive the right to a trustee's report or other information otherwise required to be furnished under this section. A beneficiary, with respect to future reports and other information, may withdraw a waiver previously given.

5. A trustee may charge a reasonable fee to a beneficiary for providing information under this section.

6. The request of any beneficiary for information under any provision of this section shall be with respect to a single trust that is sufficiently identified to enable the trustee to locate the records of the trust.

7. If the trustee is bound by any confidentiality restrictions with respect to an asset of a trust, any beneficiary who is eligible to receive information pursuant to this section about such asset shall agree to be bound by the confidentiality restrictions that bind the trustee before receiving such information from the trustee.

8. This section does not apply to a trust created under a trust instrument that became irrevocable before January 1, 2005, and the law in effect prior to January 1, 2005, regarding the subject matter of this section shall continue to apply to those trusts.

456.8-814. DISCRETIONARY POWERS — TAX SAVINGS. — 1. Notwithstanding the [breadth of discretion granted to a trustee in the terms of the trust, including the] use of such terms as "absolute," "sole," or "uncontrolled," **in the exercise of discretion under an ascertainable standard**, the trustee shall exercise [a] **such** discretionary power in good faith and in accordance with the terms and purposes of the trust and the interests of the beneficiaries.

2. Subject to subsection 4 of this section, and unless the terms of the trust expressly indicate that a rule in this subsection does not apply:

(1) a person other than a settlor who is a beneficiary and trustee of a trust that confers on the trustee a power to make discretionary distributions to or for the trustee's personal benefit may exercise the power only in accordance with an ascertainable standard [relating to the trustee's

individual health, education, support, or maintenance within the meaning of Section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code];

(2) a trustee may not exercise a power to make discretionary distributions to satisfy a legal obligation of support that the trustee personally owes another person; and

(3) for purposes of this subsection 2 of this section, the term "trustee" shall include a person who is deemed to have any power of a trustee, whether because such person has the right to remove or replace any trustee, because a reciprocal trust or power doctrine applies, or for any other reason.

3. A power whose exercise is limited or prohibited by subsection 2 may be exercised by a majority of the remaining trustees whose exercise of the power is not so limited or prohibited. If the power of all trustees is so limited or prohibited, the court may appoint a special fiduciary with authority to exercise the power.

4. Subsection 2 of this section does not apply to:

(1) a power held by the settlor's spouse who is the trustee of a trust for which a marital deduction, as defined in Section 2056(b)(5) or 2523(b)(5) of the Internal Revenue Code was previously allowed;

(2) any trust during any period that the trust may be revoked or amended by its settlor; or

(3) a trust if contributions to the trust qualify for the annual exclusion under Section 2503(c) of the Internal Revenue Code.

456.8-816. SPECIFIC POWERS OF TRUSTEE. — Without limiting the authority conferred by section 456.8-815, a trustee may:

(1) collect trust property and accept or reject additions to the trust property from a settlor or any other person;

(2) acquire or sell property in divided or undivided interests, for cash or on credit, at public or private sale;

(3) exchange, partition, or otherwise change the character of trust property;

(4) deposit trust money in an account in a financial institution;

(5) borrow money, with or without security, and mortgage or pledge trust property for a period within or extending beyond the duration of the trust;

(6) with respect to an interest in a proprietorship, partnership, limited liability company, business trust, corporation, or other form of business or enterprise, continue the business or other enterprise and take any action that may be taken by shareholders, members, or property owners, including merging, dissolving, or otherwise changing the form of business organization or contributing additional capital;

(7) with respect to stocks or other securities, exercise the rights of an absolute owner, including the right to:

(a) vote, or give proxies to vote, with or without power of substitution, or enter into or continue a voting trust agreement;

(b) hold a security in the name of a nominee or in other form without disclosure of the trust so that title may pass by delivery;

(c) pay calls, assessments, and other sums chargeable or accruing against the securities, and sell or exercise stock subscription or conversion rights; and

(d) deposit the securities with a depository or other financial institution;

(8) with respect to an interest in real property, construct, or make ordinary or extraordinary repairs to, alterations to, or improvements in, buildings or other structures, demolish improvements, raze existing or erect new party walls or buildings, subdivide or develop land, dedicate land to public use or grant public or private easements, and make or vacate plats and adjust boundaries;

(9) enter into a lease for any purpose as lessor or lessee, including a lease or other arrangement for exploration and removal of natural resources, with or without the option to purchase or renew, for a period within or extending beyond the duration of the trust;

- (10) grant an option involving a sale, lease, or other disposition of trust property or acquire an option for the acquisition of property, including an option exercisable beyond the duration of the trust, and exercise an option so acquired;
 - (11) insure the property of the trust against damage or loss and insure the trustee, the trustee's agents, and beneficiaries against liability arising from the administration of the trust;
 - (12) abandon or decline to administer property of no value or of insufficient value to justify its collection or continued administration;
 - (13) with respect to possible liability for violation of environmental law:
 - (a) inspect or investigate property the trustee holds or has been asked to hold, or property owned or operated by an organization in which the trustee holds or has been asked to hold an interest, for the purpose of determining the application of environmental law with respect to the property;
 - (b) take action to prevent, abate, or otherwise remedy any actual or potential violation of any environmental law affecting property held directly or indirectly by the trustee, whether taken before or after the assertion of a claim or the initiation of governmental enforcement;
 - (c) decline to accept property into trust or disclaim any power with respect to property that is or may be burdened with liability for violation of environmental law;
 - (d) compromise claims against the trust which may be asserted for an alleged violation of environmental law; and
 - (e) pay the expense of any inspection, review, abatement, or remedial action to comply with environmental law;
 - (14) pay or contest any claim, settle a claim by or against the trust, and release, in whole or in part, a claim belonging to the trust;
 - (15) pay taxes, assessments, compensation of the trustee and of employees and agents of the trust, and other expenses incurred in the administration of the trust;
 - (16) exercise elections with respect to federal, state, and local taxes;
 - (17) select a mode of payment under any employee benefit or retirement plan, annuity, or life insurance payable to the trustee, exercise rights thereunder, including exercise of the right to indemnification for expenses and against liabilities, and take appropriate action to collect the proceeds;
 - (18) make loans out of trust property, including loans to a beneficiary on terms and conditions the trustee considers to be fair and reasonable under the circumstances, and the trustee has a lien on future distributions for repayment of those loans;
 - (19) pledge trust property to guarantee or secure loans made by others to a beneficiary;
 - (20) appoint a trustee to act in another jurisdiction with respect to trust property located in the other jurisdiction, confer upon the appointed trustee all of the powers and duties of the appointing trustee, require that the appointed trustee furnish security, and remove any trustee so appointed;
 - (21) pay an amount distributable to a beneficiary who is under a legal disability or who the trustee reasonably believes is incapacitated, by paying it directly to the beneficiary or applying it for the beneficiary's benefit, or by:
 - (a) paying it to the beneficiary's conservator or, if the beneficiary does not have a conservator, the beneficiary's guardian;
 - (b) paying it to the beneficiary's custodian under the Missouri transfers to minors law under sections 404.005 to 404.094, RSMo, or a personal custodian under sections 404.400 to 404.650, RSMo, and, for that purpose, creating a custodianship or custodial trust;
 - (c) if the trustee does not know of a conservator, guardian, custodian, or custodial trustee, paying it to an adult relative or other person having legal or physical care or custody of the beneficiary, to be expended on the beneficiary's behalf; or
 - (d) managing it as a separate fund on the beneficiary's behalf, subject to the beneficiary's continuing right to withdraw the distribution;
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(22) on distribution of trust property or the division or termination of a trust, make distributions in divided or undivided interests, allocate particular assets in proportionate or disproportionate shares, value the trust property for those purposes, and adjust for resulting differences in valuation;

(23) resolve a dispute concerning the interpretation of the trust or its administration by mediation, arbitration, or other procedure for alternative dispute resolution;

(24) prosecute or defend an action, claim, or judicial proceeding in any jurisdiction to protect trust property and the trustee in the performance of the trustee's duties;

(25) **to engage and compensate attorneys, accountants, investment advisors, or other agents, and to delegate to them trustee's duties and functions in accordance with the provisions of section 456.8-807;**

(26) sign and deliver contracts and other instruments that are useful to achieve or facilitate the exercise of the trustee's powers[.];

[(26)] (27) on termination of the trust, exercise the powers appropriate to wind up the administration of the trust and distribute the trust property to the persons entitled to it; and

[(27)] (28) to invest and reinvest trust assets in accordance with sections 469.900 to 469.913, RSMo; including investing and reinvesting in securities or obligations of any state or its political subdivisions, including securities or obligations that are underwritten by the trustee or an affiliate of the trustee or a syndicate in which the trustee or an affiliate of the trustee is a member which meet the standards established by the division of finance pursuant to subsection 5 of section 362.550, RSMo.

469.600. DOCTRINE OF WORTHIER TITLE AND RULE IN BINGHAM'S CASE ABOLISHED, EFFECT OF LANGUAGE DESCRIBING BENEFICIARIES. — The doctrine of worthier title and the Rule in Bingham's case is abolished as a rule of law and as a rule of construction. Language in a governing instrument describing the beneficiaries of a disposition as the transferor's "heirs", "heirs at law", "next of kin", "distributees", "relatives", or "family", or language of similar import does not create or presumptively create a reversionary interest in the transferor.

473.333. INVESTMENT OF SURPLUS FUNDS. — If it appears that there is a surplus of money in the hands of the personal representative that will not shortly be required for the expenses of administration, or payment of claims, taxes or other required disbursements, the personal representative shall make such investment of the money on or after August 28, 1998, in accordance with the provisions of the Missouri prudent investor act, sections [456.900 to 456.913] **469.900 to 469.913**, RSMo. The personal representative may also, without an order of court, invest in (1) direct obligations of, or obligations unconditionally guaranteed as to principal and interest, by the United States, or (2) accounts of savings and loan associations to the extent the accounts are insured by the Federal Savings and Loan Insurance Corporation, without inquiry as to whether the investment is reasonable and prudent. An order of court authorizing investments pursuant to this section does not relieve a personal representative or his sureties of responsibility and liability if the investment made is not in fact in accordance with the Missouri prudent investor act, sections [456.900 to 456.913] **469.900 to 469.913**, RSMo.

473.787. DUTIES OF PERSONAL REPRESENTATIVE IN INDEPENDENT ADMINISTRATION — ATTORNEY REQUIRED, WHEN. — 1. While letters testamentary or of administration authorizing independent administration of the estate are in force, the personal representative therein named is an independent personal representative and his administration of the estate is an independent administration, and all actions taken on or after August 28, 1996, shall be in accordance with the provisions of the Missouri prudent investor act, sections [456.900 to 456.913] **469.900 to 469.913**, RSMo.

2. An independent personal representative shall proceed expeditiously with the settlement and distribution of the estate in accordance with the applicable provisions of this chapter and, except as otherwise specified by the provisions of sections 473.780 to 473.843, shall do so without adjudication, order, or direction of the court, but he may invoke the jurisdiction of the court, in proceedings authorized by this code, to resolve questions concerning the estate or its administration or distribution.

3. Unless he is a member in good standing of the Missouri bar, an independent personal representative, because he owes a fiduciary duty to the persons interested in the estate, shall secure the advice and services of an attorney, who is not a salaried employee of the personal representative, on legal questions arising in connection with:

- (1) The application for and issuance of letters testamentary or of administration;
- (2) The collection, investment and preservation of assets;
- (3) The inventory;
- (4) The allowance, disallowance, compromise and payment of claims;
- (5) The making of tax returns;
- (6) The transfer and encumbrance of property of the estate;
- (7) The interpretation of the will and of the intestacy laws;
- (8) The scheme and making of distribution; and
- (9) The closing of the estate.

475.092. PROTECTIVE ARRANGEMENTS AND SINGLE TRANSACTIONS, COURT'S POWERS — LIMITATION OF TRUSTEE'S LIABILITY. — 1. If it is established in a proceeding conducted in [the] a manner [prescribed for] **similar to a proceeding for the appointment of a conservator of the estate that a person is a minor or disabled, or has a physical or mental disability as defined under state or federal law,** the court, without appointing a conservator, may authorize, direct or ratify any transaction necessary or desirable to achieve any security, service, or care arrangement meeting the foreseeable needs of the [minor or disabled] person.

2. When it has been established in such a proceeding that the person is a minor or disabled, **or has a physical or mental disability as defined under state or federal law,** the court, without appointing a conservator, may authorize, direct or ratify any contract or other transaction relating to the [minor or disabled] person's financial affairs or involving such person's estate if the court determines that the transaction is in the best interests of the [minor or disabled] person and if such action would otherwise be within the power of the court [pursuant to this chapter]. A transaction pursuant to this section may include the establishment by the court or other grantor of an inter vivos trust, **including a trust that complies with the provisions of 42 U.S.C. Section 1396p(d)(4),** on behalf of the [minor or disabled] person provided that upon such person's death, after the payment of trustees' fees, [the state of Missouri shall first receive all amounts remaining in the trust up to an amount equal to the total medical assistance paid on such person's behalf pursuant to a state plan as provided in Title 42 of the United States Code] **any payments to the state Medicaid agency that are required by the provisions of 42 U.S.C. Section 1396p(d)(4) are made** and, provided further, that any creditor of the [minor or disabled] person other than the state of Missouri shall also be paid all sums due for such person's care, maintenance and support, to the extent trust property is sufficient therefor, and, provided, such trust shall terminate upon such person's death and any amounts remaining in the trust after the foregoing payments shall be distributed to [such decedent's estate] **the remainder beneficiaries designated in the trust or as designated pursuant to the exercise of a power of appointment set forth in the trust. This section shall not be interpreted to require all such trusts to be established by a court proceeding.**

3. Before approving a protective arrangement or other transaction pursuant to this section, the court shall consider the interests of creditors and dependents of the [minor or disabled] person and, in view of such person's disability, whether such person needs the continuing protection of a conservator. The court may appoint a special conservator to assist in the accomplishment of

any protective arrangement or other transaction authorized pursuant to this section who shall have the authority conferred by the order and serve until discharged by order after report to the court of all matters done pursuant to the order of appointment.

4. Notwithstanding any other law to the contrary, the trustee of any trust created or approved by a Missouri court [for a minor or disabled person] prior to August 28, 1999, **for the benefit of a person who is a minor or disabled, or has a physical or mental disability as defined under state or federal law** shall not be liable to the state of Missouri or to any creditor of such person if, on August 28, 1999, the trust does not have sufficient assets to reimburse the state of Missouri for medical assistance paid on such person's behalf pursuant to a state plan as provided in Title 42 of the United States Code or to reimburse a creditor for sums due for such person's care, maintenance and support. Any such trust which is in existence as of August 28, 1999, shall be subject to subsection 2 of this section, as amended, notwithstanding any provisions of such trust to the contrary. The trustee shall not be liable for any distributions or payments made prior to August 28, 1999, pursuant to the terms of such trust.

475.130. GENERAL DUTIES AND POWERS OF CONSERVATOR OF ESTATE. — 1. Conservator of the estate of a minor or disabled person shall, under supervision of the court, protect, preserve and manage the estate, invest it, on or after August 28, 1998, in accordance with the provisions of the Missouri prudent investor act, sections [456.900 to 456.913] **469.900 to 469.913**, RSMo, apply it as provided in this code, account for it faithfully, perform all other duties required of him by law, and at the termination of the conservatorship deliver the assets of the protectee to the persons entitled thereto. In protecting, preserving and managing the estate, the conservator of the estate is under a duty to use the degree of care, skill and prudence which an ordinarily prudent man uses in managing the property of, and conducting transactions on behalf of, others. If a conservator of the estate has special skills or is appointed on the basis of representations of special skills or expertise, he is under a duty to use those skills in the conduct of the protectee's affairs. A conservator of the estate is under a duty to act in the interest of the protectee and to avoid conflicts of interest which impair his ability so to act.

2. The conservator of the estate shall take possession of all of the protectee's real and personal property, and of rents, income, issue and profits therefrom, whether accruing before or after his appointment, and of the proceeds arising from the sale, mortgage, lease or exchange thereof. Subject to such possession, the title to all such estate, and to the increment and proceeds thereof, is in the protectee and not in the conservator. Upon a showing that funds available or payable for the benefit of the protectee by any federal agency are being applied for the benefit of the protectee, or that such federal agency has refused to recognize the authority of the conservator to administer such funds, the court may waive, by order, the duty of the conservator to account therefor.

3. The court has full authority under the rules of civil procedure to enjoin any person from interfering with the right of the conservator to possession of the assets of the protectee, including benefits payable from any source.

4. The conservator of the estate shall prosecute and defend all actions instituted in behalf of or against the protectee; collect all debts due or becoming due to the protectee, and give acquittances and discharges therefor, and adjust, settle and pay all claims due or becoming due from the protectee so far as his estate and effects will extend, except as provided in sections 507.150 and 507.188, RSMo.

5. A conservator of the estate has power, without authorization or approval of the court, to:

- (1) Settle or compromise a claim against the protectee or the estate agreeing to pay or paying not more than one thousand dollars;
- (2) Settle, abandon or compromise a claim in favor of the estate which does not exceed one thousand dollars;

(3) Sell, or agree to sell, chattels, choses in action and investment securities reasonably worth not more than one thousand dollars for cash or upon terms involving a reasonable extension of credit;

(4) Exchange, or agree to exchange, chattels, choses in action and investment securities for other such property of equivalent value, not in excess of one thousand dollars;

(5) Insure or contract for insurance of property of the estate against fire, theft and other hazards;

(6) Insure or contract for insurance protecting the protectee against any liability likely to be incurred, including medical and hospital expenses, and protecting the conservator against liability to third parties arising from acts or omissions connected with possession or management of the estate;

(7) Contract for needed repairs and maintenance of property of the estate;

(8) Lease land and buildings for terms not exceeding one year, reserving reasonable rent, and renew any such lease for a like term;

(9) Vote corporate stock in person or by general or limited proxy;

(10) Contract for the provision of board, lodging, education, medical care, or necessities of the protectee for periods not exceeding one year, and renew any such contract for a like period.

6. If, in exercising any power conferred by subsection 5, of this section, a conservator breaches any of the duties enumerated in subsection 1, he may be surcharged for losses to the estate caused by the breach but persons who dealt with the conservator in good faith, without knowledge of or reason to suspect the breach of duty, may enforce and retain the benefits of any transaction with the conservator which he has power under subsection 5 of this section to conduct.

475.190. INVESTMENT OF MONEY — REPORTS. — 1. The conservator shall invest the money of the protectee, from whatever source derived, unless it is required for other lawful purposes.

2. No investment, other than an investment (a) in the direct obligations of or obligations unconditionally guaranteed as to principal and interest by the United States or (b) in savings accounts and time deposits, including time certificates of deposit, in banking institutions to the extent such accounts or deposits are insured by the Federal Deposit Insurance Corporation or (c) in accounts of savings and loan associations to the extent such accounts are insured by the Federal Savings and Loan Insurance Corporation, shall be made without prior order of the court.

3. The conservator may invest in any other property, real or personal, which the court finds is a reasonable and prudent investment in the circumstances. An order of court authorizing investment under this subsection does not relieve a conservator or his sureties of responsibility and liability if the investment made is not in fact in accordance with the Missouri prudent investor act, sections [456.900 to 456.913] **469.900 to 469.913**, RSMo.

4. Every conservator shall make a report at every annual settlement of the disposition made by the conservator of the money belonging to the protectee entrusted to him. If it appears that the money is invested in securities, then the conservator shall report a detailed description of the securities and shall describe any real estate security and state where it is situated, and its value, which report shall be filed in the court. The court shall carefully examine into the report as soon as made, and, if in the opinion of the court the security is insufficient, the court shall make such orders as are necessary to protect the interest of the protectee. The conservator and his sureties are liable on their bond for any omission to comply with the orders of the court. If the money has not been invested as authorized by law the conservator shall state that fact and the reasons, and shall state that the conservator has been unable to make an investment after diligent effort to do so.

5. If any conservator refuses or neglects to make the report at the time aforesaid, or makes a false report thereof, he and his sureties are liable on their bond for all loss or damage to the

protectee occasioned by reason of his neglect or refusal so to report, or by making a false report, and the conservator may, on account thereof, be removed from his trust in the discretion of the court.

700.385. REPOSSESSED HOMES, CERTIFICATE OF TITLE — APPLICATION PROCEDURE, FEE, FORM OF — MANUFACTURED HOMES, NOTICE — ISSUED WHEN — DIRECTOR OF REVENUE, DUTIES — RULEMAKING AUTHORITY. — 1. When the holder of any indebtedness secured by a security agreement or other contract for security covering a manufactured home, **who has a notice of lien on file with the director of revenue**, repossesses the manufactured home either by legal process or in accordance with the terms of a contract authorizing the repossession of the manufactured home without legal process, the holder may obtain a certificate of [title] **ownership** from the director of revenue upon presentation of:

(1) An application[, which shall be upon a blank] form furnished by the director of revenue [and] **which** shall contain [the] **a** full description of the manufactured home and the manufacturer's or other identifying number;

(2) **A notice of lien receipt or the original certificate of ownership reflecting the holder's lien; and**

(3) An affidavit of the holder, **certified under penalties of perjury for making a false statement to a public official**, that the debtor defaulted in payment of the debt, and that the holder repossessed the manufactured home either by legal process or in accordance with the terms of the contract, and the specific address where the manufactured home is held; and

(3) The original, or a conformed or photostatic copy of the original, of the security agreement or other contract for security and the instrument or instruments evidencing the indebtedness secured by the security agreement or other contract for security.

The director may, by regulation, prescribe for the inclusion in either or both the application or affidavit required by this subsection any other information that he, from time to time, deems necessary or advisable, and may prescribe that the affidavit required by this subsection be part of the application]. **Such affidavit shall also state that the lienholder has the written consent from all owners or lienholders of record to repossess the manufactured home or has provided all the owners or lienholders with written notice of the repossession.**

2. **On a manufactured home, the lienholder shall first give:**

(1) **Ten days' written notice by first class United States mail, postage prepaid, to each of the owners and other lienholders, if any, of the manufactured home at each of their last mailing addresses as shown by the last prior certificate of ownership, if any issued, or the most recent address on the lienholder's records, that an application for a repossessed title will be made; or**

(2) **The lienholder may, ten days prior to applying for a repossession title, include the information in the above notice in the appropriate uniform commercial code notice under sections 400.9-613 or 400.9-614, RSMo. Such alternative notice to all owners and lienholders shall be valid and enforceable under both the uniform commercial code and this section, provided it otherwise complies with the provisions of the uniform commercial code.**

3. Upon the holder's presentation of the papers required by subsection 1 of this section and the payment of a fee of ten dollars, the director of revenue, if he is satisfied with the genuineness of the papers, shall issue and deliver to the holder a certificate of [title] **ownership** which shall be in its usual form except it shall be clearly captioned "Reposessed Title"; except that, unless the application is accompanied by the written consent, acknowledged before an officer authorized to take acknowledgments, of the owners and other lienholders, if any, of the manufactured home as shown by the last prior certificate of title or ownership, if any, issued on the manufactured home for the issuance of a repossessed title to the applicant, no such repossessed title may be issued by the director of revenue unless the director shall first give ten days' written notice by first class United States mail postage prepaid to each of the owners and

other lienholders, if any, of the manufactured home at each of their last mailing addresses as shown by the last prior certificate of title or ownership, if any, issued on the manufactured home that an application for a repossessed title has been made and the date the repossessed title will be issued, which notice shall be accompanied by a copy, photostatic or otherwise, of the application and affidavit. The application for repossessed title may be withdrawn by the applicant at any time before the granting thereof]. Each repossessed title so issued shall, for all purposes, be treated as an original certificate of [title] **ownership** and shall supersede the outstanding certificate of [title or] ownership, if any, and duplicates thereof, if any, on the manufactured home, all of which shall become null and void.

[3.] **4.** In any case where there is no certificate of [title or] ownership, or duplicate thereof, outstanding in the name of the debtor on the repossessed manufactured home, the director of revenue shall issue a repossessed title to the holder [upon the payment of] **and shall proceed to collect** all unpaid fees, taxes, charges and penalties owed by the debtor, in addition to the fee specified in subsection 2 of this section.

5. The director of revenue may prescribe rules and regulations for the effective administration of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

Approved July 10, 2006

SB 893 [HCS SB 893]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Prohibits any ambulance or fire protection district from reducing the district's sales tax, rather than the collector

AN ACT to repeal section 321.554, RSMo, and section 321.243 as enacted by senate substitute for senate committee substitute for house committee substitute for house bills nos. 452, 203, 377, 472, 473, 556 & 647, eighty-eighth general assembly, first regular session, and section 321.243 as enacted by conference committee substitute no. 2 for senate substitute no. 2 for house committee substitute for house bills nos. 484, 199 & 72, eighty-eighth general assembly, first regular session, and to enact in lieu thereof two new sections relating to taxes for districts that provide emergency services.

SECTION

- A. Enacting clause.
- 321.243. Tax authorized for dispatching center and equipment and services in a certain county — requirements — funds, payment from — board of directors, members, qualifications — St. Charles County, special board, powers.
- 321.554. Adjustment in total operating levy of district based on sales tax revenue, exceptions — general reassessment, effect of.

321.243. Tax authorized for dispatching center and equipment and services in a certain county — requirements — funds, payment from — board of directors, members, qualifications — St. Charles County, special board, powers.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 321.554, RSMo, and section 321.243 as enacted by senate substitute for senate committee substitute for house committee substitute for house bills nos. 452, 203, 377, 472, 473, 556 & 647, eighty-eighth general assembly, first regular session, and section 321.243 as enacted by conference committee substitute no. 2 for senate substitute no. 2 for house committee substitute for house bills nos. 484, 199 & 72, eighty-eighth general assembly, first regular session, are repealed and two new sections enacted in lieu thereof, to be known as sections 321.243 and 321.554, to read as follows:

321.243. TAX AUTHORIZED FOR DISPATCHING CENTER AND EQUIPMENT AND SERVICES IN A CERTAIN COUNTY — REQUIREMENTS — FUNDS, PAYMENT FROM — BOARD OF DIRECTORS, MEMBERS, QUALIFICATIONS — ST. CHARLES COUNTY, SPECIAL BOARD, POWERS. — 1. Notwithstanding any other provision of law to the contrary, an additional tax of not to exceed three cents per one hundred dollars of assessed valuation may be levied and collected by any city, town, village, county, or fire protection district, or a central fire and emergency services board established in subsection 4 of this section. All the funds derived from such tax shall be used solely for the purpose of establishing and providing a joint[.] central fire and emergency dispatching service, **and, in any county with a charter form of government and with more than one million inhabitants, for expenditures for equipment and services, except for salaries, wages, and benefits, by cities, towns, villages, counties, or fire protection districts which contract with such joint central fire and emergency dispatching service.**

2. The additional tax prescribed by this section shall be levied only when the governing body of the city, town, village, county, fire protection district, or central fire and emergency services board determines that a central fire and emergency dispatching center will meet the minimum requirements set by section 321.245, and, except where a central fire and emergency services board is established in accordance with subsection 4 of this section, when the governing body has entered into a contract with the center for fire and emergency dispatching services. The funds from the tax shall be kept separate and apart from all other funds of the city, town, village, county, fire protection district, or central fire and emergency services board and shall be paid out only on order of the governing body. Except as provided in subsection 4 of this section, all funds received by such center, and all operations of such center shall be governed and controlled by a board of directors consisting of one member from each such agency using the joint[.] central fire and emergency dispatching service. Except as otherwise provided in subsection 4 of this section, in any county, city, town, or village, where a tax-supported fire protection district is provided emergency dispatching services by any form of joint communication organization or emergency dispatching center, receiving directly or indirectly any funds so levied and collected as provided in this section including any funds or tariffs paid by telephone subscribers for 911 emergency service, such joint communication organization, however organized, shall be governed by a board of directors, and the board of directors shall consist in part of one member appointed by each county, city, town, village or tax-supported fire protection district, so served. The members shall be an elected official of a fire protection district, ambulance district or city council appointed by each such agency to serve for a one-year term or until a successor is duly appointed.

3. In addition to the tax prescribed by subsections 1 and 2 of this section, an additional tax of not to exceed two cents per one hundred dollars of assessed valuation which has been approved by the voters may be levied and collected by any city, town, village, county, or fire protection district, or a central fire and emergency services board established in subsection 4 of this section of a county of the first classification with a charter form of government which has

a population between two hundred thousand and five hundred thousand inhabitants, but all of the funds derived from such tax shall be used solely for the purpose of establishing and providing a joint[,] central fire and emergency dispatching service.

4. A central fire and emergency services board shall be established in any county of the first classification with a charter form of government which has a population between two hundred thousand and five hundred thousand inhabitants in the manner prescribed in this subsection. The board shall have all powers and duties prescribed in this section and section 321.245 to establish and provide a joint[,] central fire and emergency dispatching service. The initial board shall be established at the April, 1996, election. The election authority shall be ordered to conduct such election, which shall be conducted as a nonpartisan election. The board shall consist of one member elected from each county council district. All board members shall serve for four-year terms, except that of the initial members elected, the members elected from odd-numbered county council districts shall serve for terms of two years and the members elected from even-numbered county council districts shall serve for terms of four years. Each member shall be a resident of the county council district from which the member is elected. No person who is a paid employee of any fire protection district, ambulance district, joint[,] central fire and emergency dispatch board, or a paid employee of a fire or ambulance department of a municipality shall be elected to the joint[,] central fire and emergency dispatch board. At such election, the election authority of the county shall submit to the qualified voters of the county a proposal for the board to levy and collect the taxes prescribed in this section, and such tax shall be conditioned on the replacement of the tax levied in such county by the county under this section with the new tax levied by the board. A portion of the funds derived from the tax levied pursuant to this subsection shall be used to reimburse the county for the cost of the election held in April, 1996, and any subsequent elections that are necessary for the operation of the board and the board's duties. In addition, if such a tax is approved, any funds remaining in the separate fund kept by the county, as required by subsection 2 of this section, and any property and equipment purchased with moneys in such separate fund held by the county shall be transferred to the fund maintained by the board for the same purpose. The board shall abide by section 50.660, RSMo, in the letting of contracts. The board shall be audited by the state auditor pursuant to section 29.230, RSMo. Except as otherwise provided in this subsection, the board shall meet [once each month] as established in the bylaws. Any other meeting may be called by four of the seven members voting in favor of having an additional meeting.

321.554. ADJUSTMENT IN TOTAL OPERATING LEVY OF DISTRICT BASED ON SALES TAX REVENUE, EXCEPTIONS — GENERAL REASSESSMENT, EFFECT OF. — 1. Except in any county of the first classification with more than two hundred forty thousand three hundred but less than two hundred forty thousand four hundred inhabitants, or any county of the first classification with more than seventy-three thousand seven hundred but less than seventy-three thousand eight hundred inhabitants, or any county of the first classification with more than one hundred eighty-four thousand but less than one hundred eighty-eight thousand inhabitants, or any county with a charter form of government and with more than one million inhabitants, or any county with a charter form of government and with more than two hundred fifty thousand but less than three hundred fifty thousand inhabitants, when the revenue from the ambulance or fire protection district sales tax is collected for distribution pursuant to section 321.552, the board of the ambulance or fire protection district, after determining its budget for the year pursuant to section 67.010, RSMo, and the rate of levy needed to produce the required revenue and after making any other adjustments to the levy that may be required by any other law, shall reduce the total operating levy of the district in an amount sufficient to decrease the revenue it would have received therefrom by an amount equal to fifty percent of the previous fiscal year's sales tax receipts. Loss of revenue, due to a decrease in the assessed valuation of real property located within the ambulance or fire protection district as a result of general reassessment, and from state-assessed railroad and utility distributable property based upon the previous fiscal year's receipts

shall be considered in lowering the rate of levy to comply with this section in the year of general reassessment and in each subsequent year. In the event that in the immediately preceding year the ambulance or fire protection district actually received more or less sales tax revenue than estimated, the ambulance or fire protection district board may adjust its operating levy for the current year to reflect such increase or decrease. The director of revenue shall certify the amount payable from the ambulance or fire protection district sales tax trust fund to the general revenue fund to the state treasurer.

2. Except that, in the first year in which any sales tax is collected pursuant to section 321.552, [the collector] **any taxing authority subject to this section** shall not reduce the tax rate as defined in section 137.073, RSMo.

3. In a year of general reassessment, as defined by section 137.073, RSMo, or assessment maintenance as defined by section 137.115, RSMo, in which an ambulance or fire protection district in reliance upon the information then available to it relating to the total assessed valuation of such ambulance or fire protection district revises its property tax levy pursuant to section 137.073 or 137.115, RSMo, and it is subsequently determined by decisions of the state tax commission or a court pursuant to sections 138.430 to 138.433, RSMo, or due to clerical errors or corrections in the calculation or recordation of assessed valuations that the assessed valuation of such ambulance or fire protection district has been changed, and but for such change the ambulance or fire protection district would have adopted a different levy on the date of its original action, then the ambulance or fire protection district may adjust its levy to an amount to reflect such change in assessed valuation, including, if necessary, a change in the levy reduction required by this section to the amount it would have levied had the correct assessed valuation been known to it on the date of its original action, provided:

(1) The ambulance or fire protection district first levies the maximum levy allowed without a vote of the people by article X, section 11(b) of the constitution; and

(2) The ambulance or fire protection district first adopts the tax rate ceiling otherwise authorized by other laws of this state; and

(3) The levy adjustment or reduction may include a one-time correction to recoup lost revenues the ambulance or fire protection district was entitled to receive during the prior year.

[321.243. TAX AUTHORIZED FOR DISPATCHING CENTER AND EQUIPMENT AND SERVICES IN A CERTAIN COUNTY — REQUIREMENTS — FUNDS, PAYMENT FROM — BOARD OF DIRECTORS, MEMBERS, QUALIFICATIONS — ST. CHARLES COUNTY, SPECIAL BOARD, POWERS. — 1. Notwithstanding any other provision of law to the contrary, an additional tax of not to exceed three cents per one hundred dollars of assessed valuation may be levied and collected by any city, town, village, county, or fire protection district, or a central fire and emergency services board established in subsection 4 of this section of a county of the first classification with a charter form of government which has a population between two hundred thousand and five hundred thousand inhabitants, except as otherwise provided in subsection 4 of this section, but all the funds derived from such tax shall be used solely for the purpose of establishing and providing a joint, central fire and emergency dispatching service.

2. The additional tax prescribed by this section shall be levied only when the governing body of the city, town, village, county, fire protection district, or central fire and emergency services board determines that a central fire and emergency dispatching center will meet the minimum requirements set by section 321.245, and, except where a central fire and emergency services board is established in accordance with subsection 4 of this section, when the governing body has entered into a contract with the center for fire and emergency dispatching services. The funds from the tax shall be kept separate and apart from all other funds of the city, town, village, county, fire protection district, or central fire and emergency services board and shall be paid out only on order of the governing body. Except as provided in subsection 4 of this section, whenever a county tax is established, the central fire and emergency dispatching center, all funds received by such center, and all operations of such center shall be governed and controlled by

a board of directors consisting of one member from each such agency using the joint, central fire and emergency dispatching service. The members shall be an elected official of a fire protection district, ambulance district or city council appointed by each such agency to serve for a one-year term or until a successor is duly appointed.

3. In addition to the tax prescribed by subsections 1 and 2 of this section, an additional tax of not to exceed two cents per one hundred dollars of assessed valuation which has been approved by the voters may be levied and collected by any city, town, village, county, or fire protection district, or a central fire and emergency services board established in subsection 4 of this section of a county of the first classification with a charter form of government which has a population between two hundred thousand and five hundred thousand inhabitants, but all of the funds derived from such tax shall be used solely for the purpose of establishing and providing a joint, central fire and emergency dispatching service.

4. A central fire and emergency services board shall be established in any county of the first classification with a charter form of government which has a population between two hundred thousand and five hundred thousand inhabitants in the manner prescribed in this subsection. The board shall have all powers and duties prescribed in this section and section 321.245 to establish and provide a joint, central fire and emergency dispatching service. The initial board shall be established at the April, 1996, election. The county clerk of the county shall be ordered to conduct such election, which shall be conducted as a nonpartisan election. The board shall consist of one member elected from each county council district. All board members shall serve for four-year terms, except that of the initial members elected, the members elected from odd-numbered county council districts shall serve for terms of two years and the members elected from even-numbered county council districts shall serve for terms of four years. Each member shall be a resident of the county council district from which the member is elected. No person who is a paid employee of any fire protection district, ambulance district, joint, central fire and emergency dispatch board, or a paid employee of a fire or ambulance department of a municipality shall be elected to the joint, central fire and emergency dispatch board. At such election, the election authority of the county shall submit to the qualified voters of the county a proposal for the board to levy and collect the taxes prescribed in this section, and such tax shall be conditioned on the replacement of the tax levied in such county by the county under this section with the new tax levied by the board. A portion of the funds derived from the tax levied pursuant to this subsection shall be used to reimburse the county for the cost of the election held in April, 1996, and any subsequent elections that are necessary for the operation of the board and the board's duties. In addition, if such a tax is approved, any funds remaining in the separate fund kept by the county, as required by subsection 2 of this section, and any property and equipment purchased with moneys in such separate fund held by the county shall be transferred to the fund maintained by the board for the same purpose. The board shall abide by section 50.660, RSMo, in the letting of contracts. The board shall be audited by the state auditor pursuant to section 29.230, RSMo. Except as otherwise provided in this subsection, the board shall not meet more than six times per year as established in the bylaws. Any other meeting may be called by six of the seven members voting in favor of having an additional meeting.]

Approved June 21, 2006

SB 894 [CCS HCS SS SCS SB 894]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires low-levy school districts to provide written notice to DESE asserting whether or not such district is providing an adequate education

AN ACT to repeal sections 163.011, 163.021, and 163.031 as enacted by conference committee substitute for house committee substitute for senate substitute for senate committee substitute for senate bill no. 287, ninety-third general assembly, first regular session, and to enact in lieu thereof seven new sections relating to education.

SECTION

- A. Enacting clause.
- 160.775. Antibullying policy required — definition — requirements.
- 163.011. Definitions — method of calculating state aid.
- 163.021. Eligibility for state aid, requirements — evaluation of correlation of rates and assessed valuation, report, calculation — further requirements — exception — operating levy less than performance levy, requirements.
- 163.031. State aid — amount, how determined — categorical add-on revenue, determination of amount — district apportionment, determination of — waiver of rules — deposits to teachers' fund and incidental fund, when.
 - 1. Ready to work endorsement program required — elements — development of standards.
 - 2. Absences in St. Louis City reported to division of family services, children's division, when, notification requirements — duties of children's division.
 - 3. Lapse of district upon withdrawal of provisional accreditation.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 163.011, 163.021, and 163.031 as enacted by conference committee substitute for house committee substitute for senate substitute for senate committee substitute for senate bill no. 287, ninety-third general assembly, first regular session, are repealed and seven new sections enacted in lieu thereof, to be known as sections 160.775, 163.011, 163.021, 163.031, 1, 2 and 3, to read as follows:

160.775. ANTIBULLYING POLICY REQUIRED — DEFINITION — REQUIREMENTS. — 1. Every district shall adopt an anti-bullying policy by September 1, 2007.

2. "Bullying" means intimidation or harassment that causes a reasonable student to fear for his or her physical safety or property. "Bullying" may consist of physical actions, including gestures, or oral or written communication, and any threat of retaliation for reporting of such acts.

3. Each district's anti-bullying policy shall be founded on the assumption that all students need a safe learning environment. Policies shall treat students equally and shall not contain specific lists of protected classes of students who are to receive special treatment. Policies may include age appropriate differences for schools based on the grade levels at the school. Each such policy shall contain a statement of the consequences of bullying.

4. Each district's anti-bullying policy shall require district employees to report any instance of bullying of which the employee has firsthand knowledge. The district policy shall address training of employees in the requirements of the district policy.

163.011. DEFINITIONS — METHOD OF CALCULATING STATE AID. — As used in this chapter unless the context requires otherwise:

(1) "Adjusted operating levy", the sum of tax rates for the current year for teachers' and incidental funds for a school district as reported to the proper officer of each county pursuant to section 164.011, RSMo;

(2) "Average daily attendance", the quotient or the sum of the quotients obtained by dividing the total number of hours attended in a term by resident pupils between the ages of five and twenty-one by the actual number of hours school was in session in that term. To the average

daily attendance of the following school term shall be added the full-time equivalent average daily attendance of summer school students. "Full-time equivalent average daily attendance of summer school students" shall be computed by dividing the total number of hours, **except for physical education hours that do not count as credit toward graduation for students in grades nine, ten, eleven, and twelve**, attended by all summer school pupils by the number of hours required in section 160.011, RSMo, in the school term. For purposes of determining average daily attendance under this subdivision, the term "resident pupil" shall include all children between the ages of five and twenty-one who are residents of the school district and who are attending kindergarten through grade twelve in such district. If a child is attending school in a district other than the district of residence and the child's parent is teaching in the school district or is a regular employee of the school district which the child is attending, then such child shall be considered a resident pupil of the school district which the child is attending for such period of time when the district of residence is not otherwise liable for tuition. Average daily attendance for students below the age of five years for which a school district may receive state aid based on such attendance shall be computed as regular school term attendance unless otherwise provided by law;

(3) "Current operating expenditures":

(a) For the fiscal year 2007 calculation, "current operating expenditures" shall be calculated using data from fiscal year 2004 and shall be calculated as all expenditures for instruction and support services except capital outlay and debt service expenditures minus the revenue from federal categorical sources; food service; student activities; categorical payments for transportation costs pursuant to section 163.161; state reimbursements for early childhood special education; the career ladder entitlement for the district, as provided for in sections 168.500 to 168.515, RSMo; the vocational education entitlement for the district, as provided for in section 167.332, RSMo; and payments from other districts;

(b) In every fiscal year subsequent to fiscal year 2007, current operating expenditures shall be the amount in paragraph (a) plus any increases in state funding pursuant to sections 163.031 and 163.043 subsequent to fiscal year 2005, not to exceed five percent, per recalculation, of the state revenue received by a district in the 2004-05 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments for any district from the first preceding calculation of the state adequacy target;

(4) "District's tax rate ceiling", the highest tax rate ceiling in effect subsequent to the 1980 tax year or any subsequent year. Such tax rate ceiling shall not contain any tax levy for debt service;

(5) "Dollar value modifier", an index of the relative purchasing power of a dollar, calculated as one plus fifteen percent of the difference of the regional wage ratio minus one, provided that the dollar value modifier shall not be applied at a rate less than 1.0:

(a) "County wage per job", the total county wage and salary disbursements divided by the total county wage and salary employment for each county and the city of St. Louis as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year;

(b) "Regional wage per job":

a. The total Missouri wage and salary disbursements of the metropolitan area as defined by the Office of Management and Budget divided by the total Missouri metropolitan wage and salary employment for the metropolitan area for the county signified in the school district number or the city of St. Louis, as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year and recalculated upon every decennial census to incorporate counties that are newly added to the description of metropolitan areas; or if no such metropolitan area is established, then:

b. The total Missouri wage and salary disbursements of the micropolitan area as defined by the Office of Management and Budget divided by the total Missouri micropolitan wage and salary employment for the micropolitan area for the county signified in the school district

number, as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year, if a micropolitan area for such county has been established and recalculated upon every decennial census to incorporate counties that are newly added to the description of micropolitan areas; or

c. If a county is not part of a metropolitan or micropolitan area as established by the Office of Management and Budget, then the county wage per job, as defined in paragraph (a) of this subdivision, shall be used for the school district, as signified by the school district number;

(c) "Regional wage ratio", the ratio of the regional wage per job divided by the state median wage per job;

(d) "State median wage per job", the fifty-eighth highest county wage per job;

(6) "Free and reduced lunch pupil count", the number of pupils eligible for free and reduced lunch on the last Wednesday in January for the preceding school year who were enrolled as students of the district, as approved by the department in accordance with applicable federal regulations;

(7) "Free and reduced lunch threshold" shall be calculated by dividing the total free and reduced lunch pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(8) "Limited English proficiency pupil count", the number in the preceding school year of pupils aged three through twenty-one enrolled or preparing to enroll in an elementary school or secondary school who were not born in the United States or whose native language is a language other than English or are Native American or Alaskan native, or a native resident of the outlying areas, and come from an environment where a language other than English has had a significant impact on such individuals' level of English language proficiency, or are migratory, whose native language is a language other than English, and who come from an environment where a language other than English is dominant; and have difficulties in speaking, reading, writing, or understanding the English language sufficient to deny such individuals the ability to meet the state's proficient level of achievement on state assessments described in Public Law 107-10, the ability to achieve successfully in classrooms where the language of instruction is English, or the opportunity to participate fully in society;

(9) "Limited English proficiency threshold" shall be calculated by dividing the total limited English proficiency pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(10) "Local effort":

(a) For the fiscal year 2007 calculation, "local effort" shall be computed as the equalized assessed valuation of the property of a school district in calendar year 2004 divided by one hundred and multiplied by the performance levy less the percentage retained by the county assessor and collector plus one hundred percent of the amount received in fiscal year 2005 for school purposes from intangible taxes, fines, escheats, payments in lieu of taxes and receipts from state-assessed railroad and utility tax, one hundred percent of the amount received for school purposes pursuant to the merchants' and manufacturers' taxes under sections 150.010 to 150.370, RSMo, one hundred percent of the amounts received for school purposes from federal properties under sections 12.070 and 12.080, RSMo, except when such amounts are used in the calculation of federal impact aid pursuant to P.L. 81-874, fifty percent of Proposition C revenues received for school purposes from the school district trust fund under section 163.087, and one hundred percent of any local earnings or income taxes received by the district for school purposes. Under this paragraph, for a special district established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million

inhabitants, a tax levy of zero shall be utilized in lieu of the performance levy for the special school district;

(b) In every year subsequent to fiscal year 2007, "local effort" shall be the amount calculated under paragraph (a) of this subdivision plus any increase in the amount received for school purposes from fines **or less any decrease in the amount received for school purposes from fines in any school district located entirely within any county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants that creates a county municipal court after January 1, 2006.** If a district's assessed valuation has decreased subsequent to the calculation outlined in paragraph (a) of this subdivision, the district's local effort shall be calculated using the district's current assessed valuation in lieu of the assessed valuation utilized in calculation outlined in paragraph (a) of this subdivision;

(11) "Membership" shall be the average of:

(a) The number of resident full-time students and the full-time equivalent number of part-time students who were enrolled in the public schools of the district on the last Wednesday in September of the previous year and who were in attendance one day or more during the preceding ten school days; and

(b) The number of resident full-time students and the full-time equivalent number of part-time students who were enrolled in the public schools of the district on the last Wednesday in January of the previous year and who were in attendance one day or more during the preceding ten school days, plus the full-time equivalent number of summer school pupils. "Full-time equivalent number of part-time students" is determined by dividing the total number of hours for which all part-time students are enrolled by the number of hours in the school term. "Full-time equivalent number of summer school pupils" is determined by dividing the total number of hours for which all summer school pupils were enrolled by the number of hours required pursuant to section 160.011, RSMo, in the school term. Only students eligible to be counted for average daily attendance shall be counted for membership;

(12) "Operating levy for school purposes", the sum of tax rates levied for teachers' and incidental funds plus the operating levy or sales tax equivalent pursuant to section 162.1100, RSMo, of any transitional school district containing the school district, in the payment year, not including any equalized operating levy for school purposes levied by a special school district in which the district is located;

(13) "Performance district", any district that has met all performance standards and indicators as established by the department of elementary and secondary education for purposes of accreditation under section 161.092, RSMo, and as reported on the final annual performance report for that district each year;

(14) "Performance levy", three dollars and forty-three cents;

(15) "School purposes" pertains to teachers' and incidental funds;

(16) "Special education pupil count", the number of public school students with a current individualized education program and receiving services from the resident district as of December first of the preceding school year, except for special education services provided through a school district established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million inhabitants, in which case the sum of the students in each district within the county exceeding the special education threshold of each respective district within the county shall be counted within the special district and not in the district of residence for purposes of distributing the state aid derived from the special education pupil count;

(17) "Special education threshold" shall be calculated by dividing the total special education pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(18) "State adequacy target", the sum of the current operating expenditures of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, divided by the total average daily attendance of all included performance districts. The department of elementary and secondary education shall first calculate the state adequacy target for fiscal year 2007 and recalculate the state adequacy target every two years using the most current available data. The recalculation shall never result in a decrease from the previous state adequacy target amount. Should a recalculation result in an increase in the state adequacy target amount, fifty percent of that increase shall be included in the state adequacy target amount in the year of recalculation, and fifty percent of that increase shall be included in the state adequacy target amount in the subsequent year. The state adequacy target may be adjusted to accommodate available appropriations;

(19) "Teacher", any teacher, teacher-secretary, substitute teacher, supervisor, principal, supervising principal, superintendent or assistant superintendent, school nurse, social worker, counselor or librarian who shall, regularly, teach or be employed for no higher than grade twelve more than one-half time in the public schools and who is certified under the laws governing the certification of teachers in Missouri;

(20) "Weighted average daily attendance", the average daily attendance plus the product of twenty-five hundredths multiplied by the free and reduced lunch pupil count that exceeds the free and reduced lunch threshold, plus the product of seventy-five hundredths multiplied by the number of special education pupil count that exceeds the special education threshold, and plus the product of six-tenths multiplied by the number of limited English proficiency pupil count that exceeds the limited English proficiency threshold. For special districts established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million inhabitants, weighted average daily attendance shall be the average daily attendance plus the product of twenty-five hundredths multiplied by the free and reduced lunch pupil count that exceeds the free and reduced lunch threshold, plus the product of seventy-five hundredths multiplied by the sum of the special education pupil count that exceeds the threshold for each county district, plus the product of six-tenths multiplied by the limited English proficiency pupil count that exceeds the limited English proficiency threshold. None of the districts comprising a special district established under sections 162.815 to 162.940, RSMo, in a county with a charter form of government and with more than one million inhabitants, shall use any special education pupil count in calculating their weighted average daily attendance.

163.021. ELIGIBILITY FOR STATE AID, REQUIREMENTS — EVALUATION OF CORRELATION OF RATES AND ASSESSED VALUATION, REPORT, CALCULATION — FURTHER REQUIREMENTS — EXCEPTION — OPERATING LEVY LESS THAN PERFORMANCE LEVY, REQUIREMENTS. — 1. A school district shall receive state aid for its education program only if it:

(1) Provides for a minimum of one hundred seventy-four days and one thousand forty-four hours of actual pupil attendance in a term scheduled by the board pursuant to section 160.041, RSMo, for each pupil or group of pupils, except that the board shall provide a minimum of one hundred seventy-four days and five hundred twenty-two hours of actual pupil attendance in a term for kindergarten pupils. If any school is dismissed because of inclement weather after school has been in session for three hours, that day shall count as a school day including afternoon session kindergarten students. When the aggregate hours lost in a term due to inclement weather decreases the total hours of the school term below the required minimum number of hours by more than twelve hours for all-day students or six hours for one-half-day kindergarten students, all such hours below the minimum must be made up in one-half day or full day additions to the term, except as provided in section 171.033, RSMo;

(2) Maintains adequate and accurate records of attendance, personnel and finances, as required by the state board of education, which shall include the preparation of a financial statement which shall be submitted to the state board of education the same as required by the provisions of section 165.111, RSMo, for districts;

(3) Levies an operating levy for school purposes of not less than one dollar and twenty-five cents after all adjustments and reductions on each one hundred dollars assessed valuation of the district;

(4) Computes average daily attendance as defined in subdivision (2) of section 163.011 as modified by section 171.031, RSMo. Whenever there has existed within the district an infectious disease, contagion, epidemic, plague or similar condition whereby the school attendance is substantially reduced for an extended period in any school year, the apportionment of school funds and all other distribution of school moneys shall be made on the basis of the school year next preceding the year in which such condition existed.

2. For the 2006-07 school year and thereafter, no school district shall receive more state aid, as calculated under subsections 1 and 2 of section 163.031, for its education program, exclusive of categorical add-ons, than it received per weighted average daily attendance for the school year 2005-06 from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts, unless it has an operating levy for school purposes, as determined pursuant to section 163.011, of not less than two dollars and seventy-five cents after all adjustments and reductions. Any district which is required, pursuant to article X, section 22 of the Missouri Constitution, to reduce its operating levy below the minimum tax rate otherwise required under this subsection shall not be construed to be in violation of this subsection for making such tax rate reduction. Pursuant to section 10(c) of article X of the state constitution, a school district may levy the operating levy for school purposes required by this subsection less all adjustments required pursuant to article X, section 22 of the Missouri Constitution if such rate does not exceed the highest tax rate in effect subsequent to the 1980 tax year. Nothing in this section shall be construed to mean that a school district is guaranteed to receive an amount not less than the amount the school district received per eligible pupil for the school year 1990-91. The provisions of this subsection shall not apply to any school district located in a county of the second classification which has a nuclear power plant located in such district or to any school district located in a county of the third classification which has an electric power generation unit with a rated generating capacity of more than one hundred fifty megawatts which is owned or operated or both by a rural electric cooperative except that such school districts may levy for current school purposes and capital projects an operating levy not to exceed two dollars and seventy-five cents less all adjustments required pursuant to article X, section 22 of the Missouri Constitution.

3. No school district shall receive more state aid, as calculated in section 163.031, for its education program, exclusive of categorical add-ons, than it received per eligible pupil for the school year 1993-1994, if the state board of education determines that the district was not in compliance in the preceding school year with the requirements of section 163.172, until such time as the board determines that the district is again in compliance with the requirements of section 163.172.

4. No school district shall receive state aid, pursuant to section 163.031, if such district was not in compliance, during the preceding school year, with the requirement, established pursuant to section 160.530, RSMo, to allocate revenue to the professional development committee of the district.

5. No school district shall receive more state aid, as calculated in subsections 1 and 2 of section 163.031, for its education program, exclusive of categorical add-ons, than it received per weighted average daily attendance for the school year 2005-06 from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts, if the district did not comply in the preceding school year with the requirements of subsection 6 of section 163.031.

6. Any school district that levies an operating levy for school purposes that is less than the performance levy, as such term is defined in section 163.011, shall provide written notice to the department of elementary and secondary education asserting that the district is providing an adequate education to the students of such district. If a school district asserts that it is not providing an adequate education to its students, such inadequacy shall be deemed to be a result of insufficient local effort. The provisions of this subsection shall not apply to any special district established under sections 162.815 to 162.940, RSMo.

163.031. STATE AID — AMOUNT, HOW DETERMINED — CATEGORICAL ADD-ON REVENUE, DETERMINATION OF AMOUNT — DISTRICT APPORTIONMENT, DETERMINATION OF — WAIVER OF RULES — DEPOSITS TO TEACHERS' FUND AND INCIDENTAL FUND, WHEN.

— 1. The department of elementary and secondary education shall calculate and distribute to each school district qualified to receive state aid under section 163.021 an amount determined by multiplying the district's weighted average daily attendance by the state adequacy target, multiplying this product by the dollar value modifier for the district, and subtracting from this product the district's local effort and, in years not governed under subsection 4 of this section, subtracting payments from the classroom trust fund under section 163.043.

2. Other provisions of law to the contrary notwithstanding:

(1) For districts with an average daily attendance of more than three hundred fifty in the school year preceding the payment year:

(a) For the 2006-07 school year, the state revenue per weighted average daily attendance received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the state revenue received by a district in the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the sum of one plus the product of one-third multiplied by the remainder of the dollar value modifier minus one, and dividing this product by the weighted average daily attendance computed for the 2005-06 school year;

(b) For the 2007-08 school year, the state revenue per weighted average daily attendance received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the state revenue received by a district in the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the sum of one plus the product of two-thirds multiplied by the remainder of the dollar value modifier minus one, and dividing this product by the weighted average daily attendance computed for the 2005-06 school year;

(c) For the 2008-09 school year, the state revenue per weighted average daily attendance received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the state revenue received by a district in the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the dollar value modifier, and dividing this product by the weighted average daily attendance computed for the 2005-06 school year;

(d) For each year subsequent to the 2008-09 school year, the amount shall be no less than that computed in paragraph (c) of this subdivision, multiplied by the weighted average daily attendance pursuant to section 163.036, less any increase in revenue received from the classroom trust fund under section 163.043;

(2) For districts with an average daily attendance of three hundred fifty or less in the school year preceding the payment year:

(a) For the 2006-07 school year, the state revenue received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the greater of state revenue received by a district in

the 2004-05 or 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the sum of one plus the product of one-third multiplied by the remainder of the dollar value modifier minus one;

(b) For the 2007-08 school year, the state revenue received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the greater of state revenue received by a district in the 2004-05 or 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the sum of one plus the product of two-thirds multiplied by the remainder of the dollar value modifier minus one;

(c) For the 2008-09 school year, the state revenue received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the greater of state revenue received by a district in the 2004-05 or 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the dollar value modifier;

(d) For each year subsequent to the 2008-09 school year, the amount shall be no less than that computed in paragraph (c) of this subdivision;

(3) The department of elementary and secondary education shall make an addition in the payment amount specified in subsection 1 of this section to assure compliance with the provisions contained in this subsection.

3. School districts that meet the requirements of section 163.021 shall receive categorical add-on revenue as provided in this subsection. The categorical add-on for the district shall be the sum of: seventy-five percent of the district allowable transportation costs under section 163.161; the career ladder entitlement for the district, as provided for in sections 168.500 to 168.515, RSMo; the vocational education entitlement for the district, as provided for in section 167.332, RSMo; and the district educational and screening program entitlements as provided for in sections 178.691 to 178.699, RSMo. The categorical add-on revenue amounts may be adjusted to accommodate available appropriations.

4. In the 2006-07 school year and each school year thereafter for five years, those districts entitled to receive state aid under the provisions of subsection 1 of this section shall receive state aid in an amount as provided in this subsection.

(1) For the 2006-07 school year, the amount shall be fifteen percent of the amount of state aid calculated for the district for the 2006-07 school year under the provisions of subsection 1 of this section, plus eighty-five percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

(2) For the 2007-08 school year, the amount shall be thirty percent of the amount of state aid calculated for the district for the 2007-08 school year under the provisions of subsection 1 of this section, plus seventy percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

(3) For the 2008-09 school year, the amount of state aid shall be forty-four percent of the amount of state aid calculated for the district for the 2008-09 school year under the provisions of subsection 1 of this section plus fifty-six percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

(4) For the 2009-10 school year, the amount of state aid shall be fifty-eight percent of the amount of state aid calculated for the district for the 2009-10 school year under the provisions of subsection 1 of this section plus forty-two percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

(5) For the 2010-11 school year, the amount of state aid shall be seventy-two percent of the amount of state aid calculated for the district for the 2010-11 school year under the provisions of subsection 1 of this section plus twenty-eight percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

(6) For the 2011-12 school year, the amount of state aid shall be eighty-six percent of the amount of state aid calculated for the district for the 2011-12 school year under the provisions of subsection 1 of this section plus fourteen percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

(7) (a) Notwithstanding subdivision (18) of section 163.011, the state adequacy target may not be adjusted downward to accommodate available appropriations in any year governed by this subsection.

(b) **a. For the 2006-07 school year**, if a school district experiences a decrease in summer school average daily attendance of more than [fifteen] **twenty** percent from the district's 2005-06 summer school average daily attendance [in any year governed by this subsection], an amount equal to the product of the percent reduction [in] **that is in excess of twenty percent** of the district's summer school average daily attendance multiplied by the funds generated by the district's summer school program in the 2005-06 school year shall be subtracted from the district's current year payment amount.

b. For the 2007-08 school year, if a school district experiences a decrease in summer school average daily attendance of more than **thirty** percent from the district's 2005-06 summer school average daily attendance, an amount equal to the product of the percent reduction that is in excess of **thirty** percent of the district's summer school average daily attendance multiplied by the funds generated by the district's summer school program in the 2005-06 school year shall be subtracted from the district's payment amount.

c. For the 2008-09 school year through the 2011-12 school year, if a school district experiences a decrease in summer school average daily attendance of more than **thirty-five** percent from the district's 2005-06 summer school average daily attendance, an amount equal to the product of the percent reduction that is in excess of **thirty-five** percent of the district's summer school average daily attendance multiplied by the funds generated by the district's summer school program in the 2005-06 school year shall be subtracted from the district's payment amount.

d. Notwithstanding the provisions of this paragraph, no such reduction shall be made in the case of a district that is receiving a payment under section 163.044 or any district whose regular school term average daily attendance for the preceding year was three hundred fifty or less.

e. This paragraph shall not be construed to permit any reduction applied under this paragraph to result in any district receiving a current-year payment that is less than the amount calculated for such district under subsection 2 of this section.

(c) If a school district experiences a decrease in its gifted program enrollment of more than twenty percent from its 2005-06 gifted program enrollment in any year governed by this subsection, an amount equal to the product of the percent reduction in the district's gifted

program enrollment multiplied by the funds generated by the district's gifted program in the 2005-06 school year shall be subtracted from the district's current year payment amount.

5. For any school district meeting the eligibility criteria for state aid as established in section 163.021, but which is considered an option district under section 163.042 and therefore receives no state aid, the commissioner of education shall present a plan to the superintendent of the school district for the waiver of rules and the duration of said waivers, in order to promote flexibility in the operations of the district and to enhance and encourage efficiency in the delivery of instructional services as provided in section 163.042.

6. (1) No less than seventy-five percent of the state revenue received under the provisions of subsections 1, 2, and 4 of this section shall be placed in the teachers' fund, and the remaining percent of such moneys shall be placed in the incidental fund. No less than seventy-five percent of one-half of the funds received from the school district trust fund distributed under section 163.087 shall be placed in the teachers' fund. One hundred percent of revenue received under the provisions of section 163.161 shall be placed in the incidental fund. One hundred percent of revenue received under the provisions of sections 168.500 to 168.515, RSMo, shall be placed in the teachers' fund.

(2) A school district shall spend for certificated compensation and tuition expenditures each year:

(a) An amount equal to at least seventy-five percent of the state revenue received under the provisions of subsections 1, 2, and 4 of this section;

(b) An amount equal to at least seventy-five percent of one-half of the funds received from the school district trust fund distributed under section 163.087 during the preceding school year; and

(c) Beginning in fiscal year 2008, as much as was spent per the second preceding year's weighted average daily attendance for certificated compensation and tuition expenditures the previous year from revenue produced by local and county tax sources in the teachers' fund, plus the amount of the incidental fund to teachers' fund transfer calculated to be local and county tax sources by dividing local and county tax sources in the incidental fund by total revenue in the incidental fund.

In the event a district fails to comply with this provision, the amount by which the district fails to spend funds as provided herein shall be deducted from the district's state revenue received under the provisions of subsections 1, 2, and 4 of this section for the following year, provided that the state board of education may exempt a school district from this provision if the state board of education determines that circumstances warrant such exemption.

7. If a school district's annual audit discloses that students were inappropriately identified as eligible for free and reduced lunch, special education, or limited English proficiency and the district does not resolve the audit finding, the department of elementary and secondary education shall require that the amount of aid paid pursuant to the weighting for free and reduced lunch, special education, or limited English proficiency in the weighted average daily attendance on the inappropriately identified pupils be repaid by the district in the next school year and shall additionally impose a penalty of one hundred percent of such aid paid on such pupils, which penalty shall also be paid within the next school year. Such amounts may be repaid by the district through the withholding of the amount of state aid.

SECTION 1. READY TO WORK ENDORSEMENT PROGRAM REQUIRED — ELEMENTS — DEVELOPMENT OF STANDARDS. — 1. The department of elementary and secondary education shall develop a "ready to work" endorsement program that enables high schools to endorse a certificate for students who meet certain standards that demonstrate that such students are deemed ready to work. The program shall be available no later than June 30, 2007.

2. The program shall include, but not be limited to, the following:

- (1) Voluntary participation by high school seniors who choose to participate;
- (2) Academic components;
- (3) Work readiness components;
- (4) Assessment tools and techniques for a third-party, independent, and objective assessment and endorsement of individual student achievement through an existing workforce investment service delivery system; and
- (5) An easily identifiable guarantee to potential employers that the entry-level employee is ready to work.

3. In developing such standards, the department shall involve representatives of the division of workforce development, employers, students, career center providers, local workforce investment boards, and school district personnel.

SECTION 2. ABSENCES IN ST. LOUIS CITY REPORTED TO DIVISION OF FAMILY SERVICES, CHILDREN'S DIVISION, WHEN, NOTIFICATION REQUIREMENTS — DUTIES OF CHILDREN'S DIVISION. — 1. In any city not within a county where a child under the age of seventeen required to attend school under section 167.031 accumulates fifteen or more absences during any one school year, the child's school district shall report such absences to the division of family services, children's division, within ten business days of the fifteenth day of absence. Such notification, which shall be in written form and retained in the student's school records, shall include:

- (1) The student's full name and parents' or guardians' full names;
- (2) The addresses and phone numbers of the student and parents or guardians;
- (3) The student's date of birth and age;
- (4) The student's current school and grade level;
- (5) The student's current grades for all classes in which the student is enrolled; and
- (6) The total number of days missed and specific days missed from school.

2. Upon receipt of a report of the absences of a child under this section, the children's division shall notify the child's parent or guardian that the child has accumulated fifteen or more absences and such report may be subject to the educational neglect provisions under section 210.145, RSMo. The notification required under this section is required regardless of whether a student's parent or guardian contacted the school and approved of the absences.

SECTION 3. LAPSE OF DISTRICT UPON WITHDRAWAL OF PROVISIONAL ACCREDITATION. — If a school district has been classified as unaccredited within the previous five school years and the district is subsequently classified as provisionally accredited, the district shall be subject to lapse on June thirtieth of any school year in which the state board of education withdraws provisional accreditation or at a later date as determined by the state board of education. The provisions of this section shall become effective January 1, 2010.

Approved July 10, 2006

SB 900 [SB 900]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions on the Missouri Commission for the Deaf and Hard of Hearing Fund

AN ACT to repeal section 161.410, RSMo, and to enact in lieu thereof one new section relating to the Missouri commission for deaf and hard of hearing fund.

SECTION

A. Enacting clause.

161.410. Missouri commission for the deaf and hard of hearing fund created in the state treasury, deposits and disbursements.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 161.410, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 161.410, to read as follows:

161.410. MISSOURI COMMISSION FOR THE DEAF AND HARD OF HEARING FUND CREATED IN THE STATE TREASURY, DEPOSITS AND DISBURSEMENTS. — 1. The executive director of the Missouri commission for the deaf and hard of hearing shall administer a revolving fund to be known as the "Missouri Commission for the Deaf and Hard of Hearing Fund" which is hereby established in the state treasury. The fund shall consist of appropriations made by the general assembly, any gifts, contributions, grants, or bequests received from federal, private, or other sources, and moneys transferred or paid to the commission in return for goods and services provided by the commission to any governmental entity or the public. The state treasurer shall approve all disbursements from the fund for the purchase of goods or services at the request of the executive director of the commission.

2. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund shall not revert to the credit of the general revenue fund[, unless and then only to the extent to which the unencumbered balance at the end of any fiscal year exceeds one-half of the total amount appropriated, paid, or transferred to the fund during such fiscal year].

Approved July 10, 2006

SB 912 [SS SCS SB 912]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Establishes a virtual school program

AN ACT to amend chapter 161, RSMo, by adding thereto one new section relating to the establishment of a virtual public school.

SECTION

A. Enacting clause.

161.670. Virtual public school established, eligibility for enrollment — state aid calculation — rulemaking authority.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 161, RSMo, is amended by adding thereto one new section, to be known as section 161.670, to read as follows:

161.670. VIRTUAL PUBLIC SCHOOL ESTABLISHED, ELIGIBILITY FOR ENROLLMENT — STATE AID CALCULATION — RULEMAKING AUTHORITY. — **1.** Notwithstanding any other law, prior to July 1, 2007, the state board of education shall establish a virtual public school to serve school-age students residing in the state. The virtual public school shall offer instruction in a virtual setting using technology, intranet, and/or Internet methods of communication. Any student under the age of twenty-one in grades kindergarten through twelve who resides in this state shall be eligible to enroll in the virtual public school regardless of the student's physical location.

2. For purposes of calculation and distribution of state school aid, students enrolled in a virtual public school shall be included, at the choice of the student's parent or guardian, in the student enrollment of the school district in which the student physically resides. The virtual public school shall report to the district of residence the following information about each student served by the virtual public school: name, address, eligibility for free or reduced-price lunch, limited English proficiency status, special education needs, and the number of courses in which the student is enrolled. The virtual public school shall promptly notify the resident district when a student discontinues enrollment. A "full-time equivalent student" is a student who successfully has completed the instructional equivalent of six credits per regular term. Each virtual course shall count as one class and shall generate that portion of a full-time equivalent that a comparable course offered by the school district would generate. In no case shall more than the full-time equivalency of a regular term of attendance for a single student be used to claim state aid. Full-time equivalent student credit completed shall be reported to the department of elementary and secondary education in the manner prescribed by the department. Nothing in this section shall prohibit students from enrolling in additional courses under a separate agreement that includes terms for paying tuition or course fees.

3. When a school district has one or more resident students enrolled in a virtual public school program authorized by this section, whose parent or guardian has chosen to include such student in the district's enrollment, the department of elementary and secondary education shall disburse an amount corresponding to fifteen percent of the state aid under sections 163.031 and 163.043, RSMo, attributable to such student to the resident district. Subject to an annual appropriation by the general assembly, the department shall disburse an amount corresponding to eighty-five percent of the state adequacy target attributable to such student to the virtual public school.

4. Except as specified in this section and as may be specified by rule of the state board of education, the virtual public school shall comply with all state laws and regulations applicable to school districts, including but not limited to the Missouri school improvement program (MSIP), adequate yearly progress (AYP), annual performance report (APR), teacher certification, and curriculum standards.

5. The state board of education through the rulemaking process and the department of elementary and secondary education in its policies and procedures shall ensure that multiple content providers are allowed.

6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

Approved June 12, 2006

SB 919 [SB 919]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Repeals the statute permitting the city council of a third-class city to prohibit the carrying of concealed weapons

AN ACT to repeal section 77.580, RSMo, relating to concealed weapons in third class cities.

SECTION

A. Enacting clause.

77.580. Carrying concealed and deadly weapons — vagrants.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 77.580, RSMo, is repealed, to read as follows:

[77.580. CARRYING CONCEALED AND DEADLY WEAPONS — VAGRANTS. — The council may prohibit and punish for the carrying of concealed deadly weapons, and may arrest and imprison, fine or set to work all vagrants found within the city.]

Approved June 12, 2006

SB 931 [SB 931]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Gives property owners one vote per acre when electing directors for a transportation development district

AN ACT to repeal section 238.216, RSMo, and to enact in lieu thereof one new section relating to the election of directors for transportation development districts.

SECTION

- A. Enacting clause.
- 238.216. Election procedure, duties of court — application for ballot, contents — mail-in elections, affidavit form, procedure — unanimous verified petition submitted, when — results entered, how.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 238.216, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 238.216, to read as follows:

238.216. ELECTION PROCEDURE, DUTIES OF COURT — APPLICATION FOR BALLOT, CONTENTS — MAIL-IN ELECTIONS, AFFIDAVIT FORM, PROCEDURE — UNANIMOUS VERIFIED PETITION SUBMITTED, WHEN — RESULTS ENTERED, HOW. — 1. Except as otherwise provided in section 238.220 with respect to the election of directors, in order to call any election required or allowed under sections 238.200 to 238.275, the circuit court shall:

(1) Order the county clerk to cause the questions to appear on the ballot on the next regularly scheduled general, primary or special election day, which date shall be the same in each county or portion of a county included within and voting upon the proposed district;

(2) If the election is to be a mail-in election, specify a date on which ballots for the election shall be mailed, which date shall be a Tuesday, and shall be not earlier than the eighth Tuesday from the issuance of the order, and shall not be on the same day as an election conducted under the provisions of chapter 115, RSMo; or

(3) If all the owners of property in the district joined in the petition for formation of the district, such owners may cast their ballot by unanimous verified petition approving any measure submitted to them as voters pursuant to this chapter. Each owner shall receive one vote per acre owned. Fractional votes shall be allowed. The verified petition shall be filed with the circuit court clerk. The filing of a unanimous petition shall constitute an election under sections 238.200 to 238.275 and the results of said election shall be entered pursuant to subsection 6 of this section.

2. Application for a ballot shall be conducted as follows:

(1) Only qualified voters shall be entitled to apply for a ballot;

(2) Such persons shall apply with the clerk of the circuit court in which the petition was filed;

(3) Each person applying shall provide:

(a) Such person's name, address, mailing address, and phone number;

(b) An authorized signature; and

(c) Evidence that such person is entitled to vote. Such evidence shall be:

a. For resident individuals, proof of registration from the election authority;

b. For owners of real property, a tax receipt or deed or other document which evidences ownership, and identifies the real property by location;

(4) No person shall apply later than the fourth Tuesday before the date for mailing ballots specified in the circuit court's order.

3. If the election is to be a mail-in election, the circuit court shall mail a ballot to each qualified voter who applied for a ballot pursuant to subsection 2 of this section along with a return addressed envelope directed to the circuit court clerk's office with a sworn affidavit on the reverse side of such envelope for the voter's signature. Such affidavit shall be in the following form:

I hereby declare under penalties of perjury that I am qualified to vote, or to affix my authorized signature in the name of an entity which is entitled to vote, in this election.

Subscribed and sworn to before me this day of....., 20.....

.....
Authorized Signature

.....
Printed Name of Voter

Signature of notary or other

.....
officer authorized to
administer oaths.

.....
Mailing Address of Voter
(if different)

4. Except as otherwise provided in subsection 2 of section 238.220, with respect to the election of directors, each qualified voter shall have one vote, **unless the qualified voters are property owners under subdivision (2) of subsection 2 of section 238.202, in which case they shall receive one vote per acre.** Each voter which is not an individual shall determine how to cast its vote as provided for in its articles of incorporation, articles of organization, articles of partnership, bylaws, or other document which sets forth an appropriate mechanism for the determination of the entity's vote. If a voter has no such mechanism, then its vote shall be cast as determined by a majority of the persons who run the day-to-day affairs of the voter. Each voted ballot shall be signed with the authorized signature.

5. Mail-in voted ballots shall be returned to the circuit court clerk's office by mail or hand delivery no later than 5:00 p.m. on the sixth Tuesday after the date for mailing the ballots as set forth in the circuit court's order. The circuit court's clerk shall transmit all voted ballots to a team of judges of not less than four, with an equal number from each of the two major political parties. The judges shall be selected by the circuit court from lists compiled by the election authority. Upon receipt of the voted ballots, the judges shall verify the authenticity of the ballots, canvass the votes, and certify the results. Certification by the election judges shall be final and shall be immediately transmitted to the circuit court. Any qualified voter who voted in such election may contest the result in the same manner as provided in chapter 115, RSMo.

6. The results of the election shall be entered upon the records of the circuit court of the county in which the petition was filed. Also, a certified copy thereof shall be filed with the county clerk of each county in which a portion of the proposed district lies, who shall cause the same to be spread upon the records of the county commission.

Approved June 9, 2006

SB 932 [CCS#2 HCS SCS SB 932]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates new requirements for county treasurer candidates and allows the Cape Girardeau County Salary Commission to equalize salaries

AN ACT to repeal sections 50.327, 50.339, 52.230, 54.040, 59.331, 228.040, 228.070, and 228.190, RSMo, and to enact in lieu thereof ten new sections relating to county officials.

SECTION

- A. Enacting clause.
- 49.292. Rejection of transfer of real property by donation or dedication authorized, when — proof and acknowledgment required.
- 50.327. Base salary schedules for county officials — salary commission responsible for computation of county official salaries, except for charter counties.
- 50.339. Cole County and Cape Girardeau salary commission authorized to equalize salaries on a one-time basis.
- 52.230. Statements and receipts mailed to taxpayers, when, contents (counties of the second, third, fourth and certain first classification).
- 54.040. Qualifications of county treasurer — persons ineligible for treasurer.
- 59.331. Certain personal identifying information not to be included in certain documents for recording, exceptions.
- 59.332. Redaction or removal of sensitive personal identifying information permitted, when, procedure (Jackson County)
- 228.040. County commission required to open road, when.
- 228.190. Roads legally established, when — deemed abandoned, when — roads deemed public county roads, when.
- 473.748. Unenforceability of certain contract provisions requiring a public administrator to be personally responsible for debt or account of a ward or protectee.
- 228.070. Road change or establishment — approval of highway engineer.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 50.327, 50.339, 52.230, 54.040, 59.331, 228.040, 228.070, and 228.190, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 49.292, 50.327, 50.339, 52.230, 54.040, 59.331, 59.332, 228.040, 228.190, and 473.748, to read as follows:

49.292. REJECTION OF TRANSFER OF REAL PROPERTY BY DONATION OR DEDICATION AUTHORIZED, WHEN — PROOF AND ACKNOWLEDGMENT REQUIRED. — **1. Notwithstanding any other law to the contrary, the county commission of any county may reject the transfer of title of real property to the county by donation or dedication if the commission determines that such rejection is in the public interest of the county.**

2. No transfer of title of real property to the county commission or any other political subdivision by donation or dedication authorized to be recorded in the office of the recorder of deeds shall be valid unless it has been proved or acknowledged. The preparer of the document relating to subsection 1 of this section shall not submit a document to the recorder of deeds for recording unless the acceptance thereof of the grantee named in the document has been proved or acknowledged.

50.327. BASE SALARY SCHEDULES FOR COUNTY OFFICIALS — SALARY COMMISSION RESPONSIBLE FOR COMPUTATION OF COUNTY OFFICIAL SALARIES, EXCEPT FOR CHARTER COUNTIES. — Notwithstanding any other provisions of law to the contrary, the salary schedules contained in section 49.082, RSMo, sections 50.334 and 50.343, 51.281, RSMo, 51.282, RSMo, 52.269, RSMo, 53.082, RSMo, 53.083, RSMo, 54.261, RSMo, 54.320, RSMo, 55.091, RSMo, 56.265, RSMo, 57.317, RSMo, [and] 58.095, RSMo, **and 473.742, RSMo,** shall be set as a

base schedule for those county officials, unless the current salary of such officials, as of August 28, 2005, is lower than the compensation provided under the salary schedules. Beginning August 28, 2005, the salary commission in all counties except charter counties in this state shall be responsible for the computation of salaries of all county officials; provided, however, that any percentage salary adjustments in a county shall be equal for all such officials in that county.

50.339. COLE COUNTY AND CAPE GIRARDEAU SALARY COMMISSION AUTHORIZED TO EQUALIZE SALARIES ON A ONE-TIME BASIS. — 1. In any county of the first classification with more than seventy-one thousand three hundred but less than seventy-one thousand four hundred inhabitants, the salary commission at its meeting in 2003 and at any meeting held in 2004 may equalize the base salary for each office to an amount not greater than that set by law as the maximum compensation. Nothing in this section shall be construed to prevent offices which have additional compensation specified in law from receiving such compensation or from having such compensation added to the base compensation in excess of the equalized salary.

2. Notwithstanding any provision of section 50.343, **50.333, or 50.327** to the contrary, in any county of the first classification with more than sixty-eight thousand six hundred but less than sixty-eight thousand seven hundred inhabitants, the salary commission may meet in the year [2004] **2007** to determine whether to equalize the base salary for the office of treasurer **and public administrator** with the base salaries of [other county officers at an amount not greater than the amount set as the maximum compensation in subdivision (1) of subsection 1 of section 50.343] **the offices of auditor and recorder of deeds.**

52.230. STATEMENTS AND RECEIPTS MAILED TO TAXPAYERS, WHEN, CONTENTS (COUNTIES OF THE SECOND, THIRD, FOURTH AND CERTAIN FIRST CLASSIFICATION). — Each year the collectors of revenue in all counties of the first class not having a charter form of government, and in all second, third and fourth class counties of the state, not under township organization, shall mail to all resident taxpayers, at least [fifteen] **thirty** days prior to delinquent date, a statement of all real and tangible personal property taxes due and assessed on the current tax books in the name of the taxpayers. Such statement shall also include the amount of real and tangible personal property taxes delinquent at the time of the mailing of the statement, including any interest and penalties associated with the delinquent taxes. Such statement shall declare upon its face, or by an attachment thereto, that they are delinquent at the time such statement is mailed for an amount of real or tangible personal property taxes, or both. Collectors shall also mail tax receipts for all the taxes received by mail.

54.040. QUALIFICATIONS OF COUNTY TREASURER — PERSONS INELIGIBLE FOR TREASURER. — 1. A candidate for county treasurer shall be at least twenty-one years of age and a resident of the state of Missouri and the county in which he or she is a candidate for at least one year prior to the date of the general election for such office. The candidate shall also be a registered voter and shall be current in the payment of all personal and real estate taxes. Upon election to such office, the person shall continue to reside in that county during his or her tenure in office.

2. No sheriff, marshal, clerk or collector, or the deputy of any such officer, shall be eligible to the office of treasurer of any county.

59.331. CERTAIN PERSONAL IDENTIFYING INFORMATION NOT TO BE INCLUDED IN CERTAIN DOCUMENTS FOR RECORDING, EXCEPTIONS. — The preparer of a document shall not include an individual's [federal Social Security number] **sensitive personal identifying information** in a document that is prepared and presented for recording in the office of the recorder of deeds. **"Sensitive personal identifying information" includes federal Social Security numbers, bank account numbers, and credit card account numbers.** This section

does not apply to state or federal tax liens, military separation or discharge papers, and other documents required by law to contain such information that are filed or recorded in the office of the recorder of deeds. **Should any person's sensitive personal identifying information appear on any document prepared or submitted for recording, the preparer, submitter, or anyone in an agency relationship with the person may redact, remove, or delete the sensitive personal identifying information before submission to the recorder of deeds. Any such redaction, removal, or deletion shall not in any way affect the legal status of the transaction described in the document. The recorder of deeds shall not alter or modify any document in the official record except as otherwise provided by law.**

59.332. REDACTION OR REMOVAL OF SENSITIVE PERSONAL IDENTIFYING INFORMATION PERMITTED, WHEN, PROCEDURE (JACKSON COUNTY) — 1. Should any sensitive personal identifying information, as defined in section 59.331, appear in any record or image viewable on any publicly available Internet web site maintained or sponsored by a recorder of deeds, any person may apply to the recorder of deeds for redaction or removal of that sensitive personal identifying information. Any such application shall be made in writing, signed by the applicant, his or her attorney, or legal guardian, and shall specifically identify the document or documents containing the sensitive personal identifying information. The application shall be accompanied by a legible copy of each recorded document affected by the application, upon which the sensitive personal identifying information that is to be redacted is highlighted or otherwise indicated. Upon receipt of an application submitted in compliance with this section, the recorder of deeds may redact or remove the affected document from the records viewable on the publicly available Internet web site.

2. The provisions of this section shall only apply to any county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants.

228.040. COUNTY COMMISSION REQUIRED TO OPEN ROAD, WHEN. — When the petition required by section 228.020 is presented, and upon proof of notice having been given as required in section 228.030, if no remonstrance is filed and if the petitioners give the right-of-way for the proposed road or pay into the county treasury an amount of money equal to the whole amount of damages claimed by landowners through whose land the proposed road would run, the county commission[, without discretion to do otherwise, must] **may open said road if the commission determines that it is in the public interest of the county,** and thereupon the commission shall proceed as in sections 228.010 to 228.190 provided in cases where upon a hearing the commission find it necessary to establish a road.

228.190. ROADS LEGALLY ESTABLISHED, WHEN — DEEMED ABANDONED, WHEN — ROADS DEEMED PUBLIC COUNTY ROADS, WHEN. — 1. All roads in this state that have been established by any order of the county commission, and have been used as public highways for a period of ten years or more, shall be deemed legally established public roads; and all roads that have been used as such by the public for ten years continuously, and upon which there shall have been expended public money or labor for such period, shall be deemed legally established roads; and nonuse by the public for five years continuously of any public road shall be deemed an abandonment and vacation of the same.

2. From and after January 1, 1990, any road in any county that has been identified as a county road for which the county receives allocations of county aid road trust funds from or through the department of transportation for a period of at least five years shall be conclusively deemed to be a public county road without further proof of the status of the road as a public road. No such public road shall be abandoned or vacated except

through the actions of the county commission declaring such road vacated after public hearing, or through the process set out in section 228.110.

473.748. UNENFORCEABILITY OF CERTAIN CONTRACT PROVISIONS REQUIRING A PUBLIC ADMINISTRATOR TO BE PERSONALLY RESPONSIBLE FOR DEBT OR ACCOUNT OF A WARD OR PROTECTEE. — 1. As used in this section, the terms "conservator", "guardian", "protectee", and "ward" shall have the same definitions as in section 475.010, RSMo.

2. Any term, provision, consideration, or covenant in any contract for treatment, goods, or services shall be unenforceable if such term, provision, consideration, or covenant requires a public administrator who is acting as a guardian or conservator to personally pay, assume, or guarantee the debt or account of a ward or protectee.

[228.070. ROAD CHANGE OR ESTABLISHMENT — APPROVAL OF HIGHWAY ENGINEER. — No county commission shall order a road established or changed until such proposed road or change has been examined and approved by the county highway engineer.]

Approved June 14, 2006

SB 933 [SB 933]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Transfers the duty of appointing railroad policemen from the Highway Patrol to the Director of the Department of Public Safety

AN ACT to repeal sections 388.600, 388.605, 388.615, and 388.645, RSMo, and to enact in lieu thereof four new sections relating to railroad policemen.

SECTION

- A. Enacting clause.
- 388.600. Railroad police authorized.
- 388.605. Application, contents, how made, fee.
- 388.615. Identification filed with director of department of public safety.
- 388.645. Termination of appointment, procedure.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 388.600, 388.605, 388.615, and 388.645, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 388.600, 388.605, 388.615, and 388.645, to read as follows:

388.600. RAILROAD POLICE AUTHORIZED. — Any railroad company may apply to the [superintendent of the Missouri state highway patrol] **director of the department of public safety** for appointment of one or more of its employees of the age twenty-one or over, who regularly work in this state and who are residents of this state, or of an adjoining state, as railroad policemen for the purpose of protecting the property of the railroad, or property for which it is responsible, and for the purpose of protecting the persons and property of its passengers and employees.

388.605. APPLICATION, CONTENTS, HOW MADE, FEE. — The application for the appointment of railroad policemen shall be in such form as the [superintendent of the Missouri

state highway patrol] **director of the department of public safety** may prescribe and shall include a statement in such detail as the [superintendent of the Missouri state highway patrol] **director of the department of public safety** may require as to the age, education, training in law enforcement and experience of each employee for whom appointment is requested. Each application shall be signed by an officer of the railroad company and by each employee for whom appointment is requested. Each application shall be accompanied by the statements of three reputable citizens of the state of Missouri attesting to the moral character of each employee for whom appointment is requested. A fee of fifteen dollars for each employee for whom appointment is requested shall be filed with the application to defray the expenses of processing the application.

388.615. IDENTIFICATION FILED WITH DIRECTOR OF DEPARTMENT OF PUBLIC SAFETY. — Each railroad policeman shall file with the [superintendent of the state highway patrol] **director of the department of public safety** his photograph, fingerprints and signature.

388.645. TERMINATION OF APPOINTMENT, PROCEDURE. — When a railroad no longer requires the services of a policeman so appointed, it shall file a notice of termination of employment with the [superintendent of the Missouri state highway patrol] **director of the department of public safety**, or at any time the [superintendent of the Missouri state highway patrol] **director of the department of public safety** may revoke the appointment by giving notice to the railroad and to the railroad policeman. Thereupon, the powers of such policeman shall cease.

Approved June 9, 2006

SB 934 [SCS SB 934]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates a grace period for barber shop licensure when the establishment changes ownership or location

AN ACT to repeal sections 328.115 and 329.045, RSMo, and to enact in lieu thereof two new sections relating to barber and cosmetology establishments.

SECTION

- A. Enacting clause.
- 328.115. Barber shops, licensure requirements — sanitary regulations, noncompliance, effect — renewal of license, fee — delinquent fee.
- 329.045. License of cosmetology shop required, establishment fee — display of license — change of ownership, effect of.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 328.115 and 329.045, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 328.115 and 329.045, to read as follows:

328.115. BARBER SHOPS, LICENSURE REQUIREMENTS — SANITARY REGULATIONS, NONCOMPLIANCE, EFFECT — RENEWAL OF LICENSE, FEE — DELINQUENT FEE. — 1. The

owner of every shop or establishment in which the occupation of barbering is practiced shall obtain a license for such shop or establishment issued by the board before barbering is practiced therein. A new license shall be obtained for a barber [shop or] establishment [before barbering is practiced therein when the shop or] **within forty-five days when the establishment changes ownership or location. The state inspector shall inspect the sanitary conditions required for licensure, established under subsection 2 of this section, for an establishment that has changed ownership or location without requiring the owner to close business or deviate in any way from the establishment's regular hours of operation.**

2. The board shall issue a license for a shop or establishment upon receipt of the license fee from the applicant if the board finds that the shop or establishment complies with the sanitary regulations adopted pursuant to section 328.060. All [shops or] **barber** establishments shall continue to comply with the sanitary regulations. Failure of a [shop or] **barber** establishment to comply with the sanitary regulations shall be grounds for the board to file a complaint with the administrative hearing commission to revoke [or], suspend, **or censure the establishment's license** [for the shop or censure] or place **the establishment's license** on probation [the holder thereof].

3. The license for a [shop or] **barber** establishment shall be renewable. The applicant for renewal of the license shall on or before the renewal date submit the completed renewal application accompanied by the required renewal fee. If the renewal application and fee are not submitted within thirty days following the renewal date, a penalty fee plus the renewal fee shall be paid to renew the license. If a new [shop] **establishment** opens any time during the licensing period and does not register a license before opening, there shall be a delinquent fee in addition to the regular fee. The license shall be kept posted in plain view within the [shop or] **barber** establishment at all times.

329.045. LICENSE OF COSMETOLOGY SHOP REQUIRED, ESTABLISHMENT FEE — DISPLAY OF LICENSE — CHANGE OF OWNERSHIP, EFFECT OF. — 1. Every establishment in which the occupation of cosmetology is practiced shall be required to obtain a license from the board. Every establishment required to be licensed shall pay to the board an establishment fee for the first three licensed cosmetologists esthetician and/or manicurists, and/or apprentices and an additional fee for each additional licensee. The fee shall be due and payable on the renewal date and, if the fee remains unpaid thereafter, there shall be a late fee in addition to the regular establishment fee or, if a new establishment opens any time during the licensing period and does not register before opening, there shall be a delinquent fee in addition to the regular establishment fee. The license shall be kept posted in plain view within the establishment at all times.

2. A new license shall be obtained for a cosmetology establishment within forty-five days when the establishment changes ownership or location. The state inspector shall inspect the sanitary conditions required for licensure for an establishment that has changed ownership or location without requiring the owner to close business or deviate in any way from the establishment's regular hours of operation.

Approved June 29, 2006

SB 936 [SB 936]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows county library boards to issue bonds for up to 5% of the value of property within the district instead of 1%

AN ACT to repeal section 182.105, RSMo, and to enact in lieu thereof one new section relating to county library district bonds.

SECTION

A. Enacting clause.

182.105. Issuance of bonds for building — limits — maturity — election — tax to pay.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 182.105, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 182.105, to read as follows:

182.105. ISSUANCE OF BONDS FOR BUILDING — LIMITS — MATURITY — ELECTION — TAX TO PAY. — 1. The county library board in any county library district may provide for the purchase of ground and for the erection of public library buildings, and for the improvement of existing buildings, and may provide for the payment of the same by the issue of bonds or otherwise, subject to the conditions and limitations set forth in this section.

2. No bonds shall be issued in an amount in excess of [one] **five** percent of the value of taxable, tangible property in the county library district, as shown by the last completed assessment for state and county purposes, nor shall such indebtedness be incurred unless it has been approved by the vote of the constitutionally required percentage of the voters of the county library district voting on the question at a municipal election.

3. Before incurring any indebtedness as authorized in this section, the county library board shall provide for the collection of an annual tax on all taxable, tangible property in the county library district sufficient to pay the interest and principal of the indebtedness as they shall fall due and to retire the same within twenty years from the date contracted.

4. If, upon the returns from the election, which shall be certified to the county commission, it appears that the question to incur or increase such indebtedness has been assented to by the constitutionally required percentage of the voters voting on the question, the county commission shall enter of record a brief recital of the returns and shall declare that the county library board may issue bonds of the county library district in a total amount not in excess of that authorized by the voters. The bonds shall be issued in denominations of not less than one hundred dollars, or some multiple thereof, payable in not more than twenty years from the date they bear, bearing interest from date at a rate not exceeding the rate per annum authorized by law. All bonds shall be signed by the chairman of the county library board, attested by the signature of the secretary, and each bond shall have impressed thereon the corporate seal of the county library district.

Approved June 12, 2006

SB 964 [SB 964]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions regarding the appointment and duties of assistant adjutants general

AN ACT to repeal section 41.150, RSMo, and to enact in lieu thereof one new section relating to the appointment and duties of assistant adjutants general.

SECTION

A. Enacting clause.

41.150. Assistant adjutants general — appointment — duties.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 41.150, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 41.150, to read as follows:

41.150. ASSISTANT ADJUTANTS GENERAL — APPOINTMENT — DUTIES. — The adjutant general may assign two assistant adjutants general in the grade of brigadier general or below, one from the ground forces and the other from the air forces of this state[, as well as a third assistant adjutant general in the grade of major general or below from the air forces of this state, who,]; **however, general officers of the line federally recognized in the grade of major general may be reassigned as a state assistant adjutant general without change in grade or branch.** **The assistant adjutant generals,** at the time of their appointment, **shall** have not less than [four] **ten** years of [previous] military service as a commissioned officer with the military forces of this state, another state or territory, the District of Columbia or the United States, or in any or all such services combined, **five years of the service being in field grade.** The assistant adjutants general shall **serve at the pleasure of the adjutant general** and perform such duties as are assigned by the adjutant general[]; and during the absence of the adjutant general from the state, and]. During any period when the adjutant general is unable to perform such duties, the senior assistant adjutant general may, **under the direction of the governor,** perform the duties of the adjutant general. [The assistant adjutants general shall serve in the grade and receive such compensation as the adjutant general determines.]

Approved June 21, 2006

SB 974 [SB 974]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Extends date for the Department of Mental Health to complete mental health services plans for persons on waitlists

AN ACT to repeal section 633.032, RSMo, and to enact in lieu thereof one new section relating to mental health waitlists for services.

SECTION

A. Enacting clause.

633.032. Mental health department to develop a plan for the needs of persons on waitlist for services — report required, made to whom, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 633.032, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 633.032, to read as follows:

633.032. MENTAL HEALTH DEPARTMENT TO DEVELOP A PLAN FOR THE NEEDS OF PERSONS ON WAITLIST FOR SERVICES — REPORT REQUIRED, MADE TO WHOM, WHEN. — 1. The department of mental health shall develop a plan to address the needs of persons who are on a waitlist for services, including persons in habilitation centers waiting for community placement. Such plan shall reflect the partnership between persons with developmental disabilities and their families, community providers, and state officials, and shall support the choice and control of consumers and their families in the delivery of services and supports. Such plan shall include the following:

- (1) A method to reduce the waitlist for services over a period of five years and to reduce the waiting period to ninety days;
- (2) A description of minimum supports and services available to all eligible individuals and their families;
- (3) An evaluation of the capacity of current providers to serve more individuals;
- (4) A method of adjusting support and service levels based on the needs of the eligible individual combined with family or other relevant circumstances affecting the support of such individual;
- (5) A method for determining the circumstances when out-of-home twenty-four-hour care may be necessary;
- (6) A description of how the plan will be implemented on a statewide basis;
- (7) Any changes in state law that will be required to implement the plan; and
- (8) An analysis of the budgetary and programmatic effects of providing supports and services for all eligible individuals and their families.

2. The plan required pursuant to this section shall be completed on or before November [1, 2003] **first each year beginning November 1, 2007**. The director of the department of mental health shall **annually** submit a copy of the plan to the speaker of the house of representatives, the president pro tem of the senate, and the governor.

Approved June 9, 2006

SB 980 [HCS SB 980]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the student loan program for nursing students

AN ACT to repeal sections 335.212 and 335.233, RSMo, and to enact in lieu thereof three new sections relating to certain nursing and teaching student assistance programs.

SECTION

- A. Enacting clause.
 - 173.232. Urban flight and rural needs scholarship program established — eligible student defined — teaching requirements for recipients — fund established.
 - 335.212. Definitions.
-

335.233. Schedule for repayment of loan — interest, amount.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 335.212 and 335.233, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 173.232, 335.212, and 335.233, to read as follows:

173.232. URBAN FLIGHT AND RURAL NEEDS SCHOLARSHIP PROGRAM ESTABLISHED — ELIGIBLE STUDENT DEFINED — TEACHING REQUIREMENTS FOR RECIPIENTS — FUND ESTABLISHED. — 1. There is hereby established the "Urban Flight and Rural Needs Scholarship Program", which shall be administered by the department of elementary and secondary education. The program shall, upon appropriation, provide scholarships, subject to the eligibility criteria enumerated in this section, for eligible students who enter a teacher education program and make a commitment to teach as a condition of receiving such scholarship.

2. Subject to appropriation, each year the department of elementary and secondary education shall make available to eligible students up to one hundred four-year urban flight and rural needs scholarships in an amount that encompasses one hundred percent of the total cost of eligible students' tuition and fees at a four-year college or university located in Missouri. Such amount shall be paid by funds appropriated to the department.

3. As used in this section, the term "eligible student" shall mean an individual who:

(1) Is a United States citizen and a Missouri resident who attended a Missouri high school;

(2) Enters and makes a commitment to pursue a teacher education program approved by the department of elementary and secondary education and offered by a four-year college or university located in Missouri;

(3) Signs an agreement with the department of elementary and secondary education in which the recipient agrees to teach in a Missouri public school, the population of which includes a higher than average "at-risk student population", as such term shall be defined by the department of elementary and secondary education, for two years for every one year the recipient received the urban flight and rural needs scholarship;

(4) Has graduated from high school with a cumulative grade point average of at least two and one-half on a four-point scale or equivalent;

(5) Maintains a cumulative grade point average of at least two and one-half on a four-point scale or equivalent.

4. If the number of applicants exceeds the number of scholarships or revenues available, the department of elementary and secondary education may consider the financial needs of the applicant.

5. The scholarships provided in this section shall be available to otherwise eligible students who either:

(1) Are currently enrolled in a community college and make a commitment to pursue a teacher education program approved by the department of elementary and secondary education and offered by a four-year college or university located in Missouri; or

(2) Have completed their baccalaureate degree and agree to enter a teacher education program and make a commitment to pursue a teacher education program approved by the department of elementary and secondary education and offered by a four-year college or university located in Missouri.

6. Every eligible student receiving scholarships under this section shall teach in an elementary or secondary public school in Missouri as provided in subdivision (3) of subsection 3 of this section. The student shall teach for a period of two years for every one year he or she received an urban flight and rural needs scholarship; otherwise, the scholarship shall be treated as a loan to the eligible student, and interest at the rate of nine

and one-half percent per year shall be charged on the unpaid balance of the amount received from the date the eligible student ceases to teach until the amount received is paid back to the state. In order to provide for the servicing of such loans, the department of elementary and secondary education may sell such loans to the higher education loan authority of the state of Missouri created pursuant to sections 173.350 to 173.445. For each year the student teaches, up to eight years, one-eighth of the amount received pursuant to this section shall be applied against the total amount received and shall not be subject to the repayment requirement of this section; provided that twenty-five percent of such amount, not subject to repayment, shall be repaid by the local school district to the department. The department of elementary and secondary education shall have the power to and shall defer interest and principal payments under certain circumstances, which shall include, but need not be limited to, the enrollment in a graduate program or service in any branch of the armed forces of the United States.

7. There is hereby established in the state treasury a fund to be known as the "Urban Flight and Rural Needs Scholarship Program Fund", which shall consist of all moneys that may be appropriated to it by the general assembly, and in addition may include any gifts, contributions, grants, or bequests received from federal, state, private, or other sources. The fund shall be administered by the department of elementary and secondary education. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund shall not be transferred to the credit of the general revenue fund at the end of the biennium. Interest and moneys earned on the fund shall be credited to the fund. Moneys in the fund shall be used solely for the purpose of awarding scholarships under the provisions of this section.

335.212. DEFINITIONS. — As used in sections 335.212 to 335.242, the following terms mean:

- (1) "Board", the Missouri state board of nursing;
- (2) "Department", the Missouri department of health and senior services;
- (3) "Director", director of the Missouri department of health and senior services;
- (4) "Eligible student", a resident who has [made application to be] **been accepted as** a full-time student in a formal course of instruction leading to an associate degree, a diploma, a bachelor of science, or a master of science in nursing or leading to the completion of educational requirements for a licensed practical nurse;
- (5) "Participating school", an institution within this state which is approved by the board for participation in the professional and practical nursing student loan program established by sections 335.212 to 335.242, having a nursing department and offering a course of instruction based on nursing theory and clinical nursing experience;
- (6) "Qualified applicant", an eligible student approved by the board for participation in the professional and practical nursing student loan program established by sections 335.212 to 335.242;
- (7) "Qualified employment", employment on a full-time basis in Missouri in a position requiring licensure as a licensed practical nurse or registered professional nurse in any hospital as defined in section 197.020, RSMo, or public or nonprofit agency, institution, or organization located in an area of need as determined by the department of health and senior services. Any forgiveness of such principal and interest for any qualified applicant engaged in qualified employment on a less than full-time basis may be prorated to reflect the amounts provided in this section;
- (8) "Resident", any person who has lived in this state for one or more years for any purpose other than the attending of an educational institution located within this state.

335.233. SCHEDULE FOR REPAYMENT OF LOAN — INTEREST, AMOUNT. — The department shall establish schedules for repayment of the principal and interest on any financial

assistance made under the provisions of sections 335.212 to 335.242. Interest at the rate of nine and one-half percent per annum shall be charged on all financial assistance made under the provisions of sections 335.212 to 335.242, but [twenty-five percent of] the interest and principal of the total financial assistance granted to a qualified applicant at the time of the successful completion of a nursing degree, diploma program or a practical nursing program shall be forgiven [for each year of] **through** qualified employment.

Approved June 29, 2006

SB 981 [HCS SB 981]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows a Highway Patrol member to accept other employment under a general order issued by the Superintendent

AN ACT to repeal section 43.060, RSMo, and to enact in lieu thereof one new section relating to the highway patrol.

SECTION

- A. Enacting clause.
- 43.060. Qualifications, patrol and radio personnel — limitations on activities, exceptions — school board membership permitted — secondary employment permitted.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 43.060, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 43.060, to read as follows:

43.060. QUALIFICATIONS, PATROL AND RADIO PERSONNEL — LIMITATIONS ON ACTIVITIES, EXCEPTIONS — SCHOOL BOARD MEMBERSHIP PERMITTED — SECONDARY EMPLOYMENT PERMITTED. — 1. Patrolmen and radio personnel shall not be less than twenty-one years of age. No person shall be appointed as superintendent or member of the patrol or as a member of the radio personnel who has been convicted of a felony or any crime involving moral turpitude, or against whom any indictment or information may then be pending charging the person with having committed a crime, nor shall any person be appointed who is not of good character or who is not a citizen of the United States and who at the time of appointment is not a citizen of the state of Missouri; or who is not a graduate of an accredited four-year high school or in lieu thereof has not obtained a certificate of equivalency from the state department of elementary and secondary education or other source recognized by that department, or who does not possess ordinary physical strength, and who is not able to pass the physical and mental examination that the superintendent prescribes.

2. Except as provided in [subsection] **subsections 3 and 4** of this section, no member of the patrol shall hold any other commission or office, elective or appointive, while a member of the patrol, except that the superintendent may authorize specified members to accept federal commissions providing investigative and arrest authority to enforce federal statutes while working with or at the direction of a federal law enforcement agency. No member of the patrol shall accept any other employment, compensation, reward, or gift other than regular salary and expenses as herein provided except with the written permission of the superintendent. No member of the patrol shall perform any police duty connected with the conduct of any election,

nor shall any member of the patrol at any time or in any manner electioneer for or against any party ticket, or any candidate for nomination or election to office on any party ticket, nor for or against any proposition of any kind or nature to be voted upon at any election.

3. Members of the patrol shall be permitted to be candidates for and members or directors of the school board in any school district where they meet the requirements for that position as set forth in chapter 162, RSMo. Members of the patrol who become school board directors or members within the state shall be permitted to receive benefits or compensation for their service to the school board as provided by chapter 162, RSMo.

4. **The superintendent may, by general order, set forth circumstances under which members of the patrol may, in addition to their duties as members of the patrol, be engaged in secondary employment.**

Approved June 9, 2006

SB 990 [SB 990]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates a portion of State Highway 179 in Cole County as the "Wyman S. Basinger Memorial Highway"

AN ACT to amend chapter 227, RSMo, by adding thereto two new sections relating to the Deputy Joann Barnes Memorial Highway and the Wyman S. Basinger Memorial Highway.

SECTION

A. Enacting clause.

227.308. Deputy Joann Barnes Memorial Highway designated for a portion of Highway H in Dent County.

227.383. Wyman S. Basinger Memorial Highway designated for a portion of State Highway 179 in Cole County.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 227, RSMo, is amended by adding thereto two new sections, to be known as sections 227.308 and 227.383, to read as follows:

227.308. DEPUTY JOANN BARNES MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF HIGHWAY H IN DENT COUNTY. — **The portion of highway H located within the county of the third classification without a township form of government and with more than fourteen thousand nine hundred but fewer than fifteen thousand inhabitants from the intersection of highway 72 to the intersection of highway DD shall be named the "Deputy Joann Barnes Memorial Highway". The costs for such designation shall be paid for by private donations.**

227.383. WYMAN S. BASINGER MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF STATE HIGHWAY 179 IN COLE COUNTY. — **The portion of state highway 179, between the state route C interchange and the state highway 54 interchange contained in Cole County**

shall be designated as the "Wyman S. Basinger Memorial Highway". All signage costs shall be paid by private donations.

Approved June 29, 2006

SB 1001 [CCS HCS SCS SBs 1001, 896 & 761]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies lawful presence requirements for drivers' license, modifies graduated driver's license law and allows the Highway Commission to revoke licenses and registrations of motor carriers in certain circumstances

AN ACT to repeal sections 302.130, 302.171, 302.178, and 302.720, RSMo, and to enact in lieu thereof five new sections relating to the licensure of certain motor vehicle drivers, with penalty provisions and an emergency clause for a certain section.

SECTION

A. Enacting clause.

- 226.009. Out-of-service orders against motor carriers, actions of commission, notice, responsibilities of motor carriers — admissibility of orders — hearing and review of order, venue, procedure — review and disclosure of information — update of records — enforcement — liability.
- 302.130. Issuance of temporary instruction permit, when — requirements — duration — permit driver sticker or sign issued, when — rulemaking authority.
- 302.171. Application for license — form — content — educational materials to be provided to applicants under twenty-one — voluntary contribution to organ donation program — information to be included in registry — voluntary contribution to blindness assistance — exemption from requirement to provide proof of lawful presence — one-year renewal, requirements.
- 302.178. Intermediate driver's license, issued to whom, requirements, limitations, fee, duration, point assessment — penalty, application for full driving privileges, requirements — exceptions — penalty — rulemaking authority, procedure.
- 302.720. Operation without license prohibited, exceptions — instruction permit, use, duration, fee — license, test required, contents, fee — director to promulgate rules and regulations for certification of third-party testers — certain persons prohibited from obtaining license, exceptions.

B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 302.130, 302.171, 302.178, and 302.720, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 226.009, 302.130, 302.171, 302.178, and 302.720, to read as follows:

226.009. OUT-OF-SERVICE ORDERS AGAINST MOTOR CARRIERS, ACTIONS OF COMMISSION, NOTICE, RESPONSIBILITIES OF MOTOR CARRIERS — ADMISSIBILITY OF ORDERS — HEARING AND REVIEW OF ORDER, VENUE, PROCEDURE — REVIEW AND DISCLOSURE OF INFORMATION — UPDATE OF RECORDS — ENFORCEMENT — LIABILITY. —
1. Whenever the Federal Motor Carrier Safety Administration, the United States Department of Transportation, or the state highways and transportation commission issues an out-of-service order against a motor carrier, as those terms are defined in section 390.5 of Title 49, Code of Federal Regulations, as those regulations have been and periodically may be amended, the commission may immediately, without hearing, order the suspension, revocation, cancellation, confiscation, or any of these, of every license,

registration, certificate, permit, and other credential issued to the motor carrier by the commission's authority under section 226.008 and every motor vehicle license plate issued under any provision of chapter 301, RSMo, which authorizes the operation of motor vehicles in intrastate or interstate commerce by that motor carrier. This section is applicable to out-of-service orders placing a motor carrier's entire operation out of service, but does not apply to any out-of-service order placing an individual driver or individual vehicle out of service.

(1) The commission immediately shall serve notice of its order upon the affected motor carrier, and upon the director of revenue, in the manner authorized by section 622.410, RSMo, or any other manner authorized by law for the service of notice of the commission's orders. The notice or order shall state a specific effective date for the commission's action or, in the commission's discretion, that its action shall become effective immediately upon the service of the notice or order upon the motor carrier. The order shall remain in force until ordered otherwise by the commission or by a court having proper jurisdiction.

(2) Whenever an order of the commission issued under subsection 1 of this section is in force, a motor carrier who is prohibited by the order from operating commercial motor vehicles shall not operate any commercial motor vehicles and shall not allow any employee, agent, lessor, or other person acting under the motor carrier's authority or control, to operate any commercial motor vehicles in intrastate or interstate commerce within this state. Upon receiving notice of the commission's order, the motor carrier immediately shall surrender all license plates, motor carrier licenses, registrations, permits, and other credentials as directed by the commission's order. While the out-of-service order is in force, the commission and department of revenue may dismiss or deny every application for the issuance of any of these credentials issued by that respective agency to that motor carrier.

(3) After the commission has issued an order under this section, the out-of-service motor carrier shall not be eligible to apply for the issuance or reinstatement of, and the commission or department of revenue shall not issue or reinstate any license plate, motor carrier license, registration, permit, certificate, or other credential issued by that respective agency described in the commission's order, until the out-of-service order and any commission orders issued under this subsection have been rescinded by the agency that issued these orders, or the orders have been set aside by a court having proper jurisdiction.

2. In any commission or court proceeding, a copy of any federal or state order described in subsection 1 of this section shall be admissible and shall constitute prima facie evidence that the motor carrier violated Title 49, Code of Federal Regulations, or that the motor carrier's operation of commercial motor vehicles poses an imminent hazard to safety, or both, as stated in that order.

3. Any person who is aggrieved by an order of the highways and transportation commission issued under this section, or by any out-of-service order issued by commission enforcement personnel under section 390.201, RSMo, or subsection 3 of section 307.400, RSMo, may apply to the circuit court for a hearing and review of the order. Venue of such judicial review shall lie within the county of the first classification with more than seventy-one thousand three hundred but fewer than seventy-one thousand four hundred inhabitants, or in the county where the out-of-service order was issued to the motor carrier. The right to a hearing and judicial review of the commission's orders under this section shall be waived, unless an aggrieved person files a petition for review with the clerk of the circuit court in the proper venue, not later than thirty days following issuance of the order to be reviewed. Except as otherwise provided in this section, sections 622.430 to 622.450, RSMo, shall govern the judicial review of orders issued by the commission or its personnel as described in this section. In addition to any other interested parties, the

commission shall have the right to appear in all hearing and review proceedings under this section, and may, in its discretion, defend any order or notice issued and any action taken by any public agency or officer acting in good faith under the provisions of this section. This section shall not be construed as conferring any jurisdiction to review, amend, vacate, or set aside any orders issued by a federal agency or federal officer.

4. Notwithstanding any provision of law to the contrary, the highways and transportation commission may receive and disclose any data, information, or evidence relating to any out-of-service motor carrier as provided in this section. Except as otherwise provided in this section, this data may include, but is not limited to, the identity and location of any persons known or reasonably believed to have leased motor vehicles with or without driver to the out-of-service motor carrier, any persons known or reasonably believed to be operating commercial motor vehicles under the authority or control of the out-of-service motor carrier, and any motor vehicles owned, operated by, or leased to the out-of-service motor carrier or those persons, including the vehicle identification numbers. The commission, in its discretion, may disclose this data to the following entities, which are hereby authorized to receive such data from, and to disclose such data to, the commission:

- (1) The Federal Motor Carrier Safety Administration and other relevant officials of the United States Department of Transportation;
- (2) The department of revenue;
- (3) The Missouri state highway patrol, and any other peace officers authorized to exercise police powers within the state;
- (4) Similarly authorized law enforcement agencies of any other state, of the United States government, or of any foreign government having legal authority to promote or enforce motor carrier safety;
- (5) Any liability insurer or surety that provides, or has an interest in providing, automobile liability insurance coverage for the out-of-service motor carrier, or for any person who leases, or proposes to lease, motor vehicles to be operated by or under the authority or control of the out-of-service motor carrier; and
- (6) Attorneys representing a person identified in this subsection; except that the commission may disclose to such attorneys only data relating to their client, their client's employer or employee, or their client's lessor or lessee with reference to a motor vehicle.

5. Upon receiving notice of any order issued by the highways and transportation commission under subsection 1 of this section, together with any additional information reasonably required by the director of revenue, the director of revenue may immediately, without hearing, update the director's records to reflect the suspension, revocation, or cancellation of all motor vehicle license plates, registrations, and other credentials issued to the out-of-service motor carrier by the director of revenue. The director of revenue shall immediately notify the motor carrier, and the commission, of all actions taken pursuant to the commission's order. The motor carrier shall have the right to seek judicial review of the commission's order, including the suspension, revocation, or cancellation of motor vehicle license plates and registrations under the commission's order, as provided in subsection 3 of this section. The motor carrier shall not be entitled to any separate appeal or review of the director of revenue's notice of suspension, revocation, or cancellation of motor vehicle licenses or registrations, or any other actions taken by the director of revenue under the commission's order.

6. The commission may authorize any of its personnel to enforce any provision of this section, or any out-of-service orders described in this section, in the same manner provided by law for other orders of the commission authorized under section 226.008. The Missouri state highway patrol, and other peace officers within this state may enforce the requirements of this section and of any orders issued under this section. If so authorized by the commission's order under this section, in addition to any other remedies

provided by law, personnel of the state department of transportation and the state highway patrol may confiscate any license plates, motor carrier licenses, registrations, certificates, permits, and other credentials issued to the motor carrier by the commission, the director of revenue, the department of revenue, or all of these.

7. Notwithstanding any provision of the law to the contrary, the state of Missouri, the highways and transportation commission, the state highway patrol, and any peace officers or other public officers acting in good faith under the authority of this section, shall not be held liable or required to pay any refund of any fees, taxes, assessments, penalties, fines, forfeitures, or other payments that may be charged to, received, or collected from the out-of-service motor carrier, or from persons whose motor vehicles are leased to or operated under the control of that motor carrier, in relation to any license plate, motor carrier license, registration, permit, certificate, or other credential that is suspended, revoked, canceled, or confiscated under any provisions of this section.

8. Any act or omission by a state agency that this section authorizes or requires with reference to an out-of-service motor carrier, or with reference to motor vehicles operated by an out-of-service motor carrier, is likewise authorized or required with reference to:

(1) Any person who operates motor vehicles under the actual control of that motor carrier, and any person who operates motor vehicles that are leased to that motor carrier, with or without driver; and

(2) Any motor vehicles operated under the actual control of that motor carrier, and any motor vehicles that are leased to that motor carrier, with or without driver.

302.130. ISSUANCE OF TEMPORARY INSTRUCTION PERMIT, WHEN — REQUIREMENTS — DURATION — PERMIT DRIVER STICKER OR SIGN ISSUED, WHEN — RULEMAKING AUTHORITY. — 1. Any person at least fifteen years of age who, except for age or lack of instruction in operating a motor vehicle, would otherwise be qualified to obtain a license pursuant to sections 302.010 to 302.340 may apply for and the director shall issue a temporary instruction permit entitling the applicant, while having such permit in the applicant's immediate possession, to drive a motor vehicle of the appropriate class upon the highways for a period of twelve months, but any such person, except when operating a motorcycle or motortricycle, must be accompanied by a licensed operator for the type of motor vehicle being operated who is actually occupying a seat beside the driver for the purpose of giving instruction in driving the motor vehicle, who is at least twenty-one years of age, and in the case of any driver under sixteen years of age, the licensed operator occupying the seat beside the driver shall be a grandparent, parent, guardian, a driver training instructor holding a valid driver education endorsement on a teaching certificate issued by the department of elementary and secondary education or a qualified instructor of a private drivers' education program who has a valid driver's license. [Beginning January 1, 2001,] An applicant for a temporary instruction permit shall successfully complete a vision test and a test of the applicant's ability to understand highway signs which regulate, warn or direct traffic and practical knowledge of the traffic laws of this state, pursuant to section 302.173. In addition, beginning January 1, [2001] **2007**, no permit shall be granted pursuant to this subsection unless a parent or legal guardian gives written permission by signing the application and in so signing, state they, or their designee as set forth in subsection 2 of this section, will provide a minimum of [twenty] **forty** hours of behind-the-wheel driving instruction, **including a minimum of ten hours of behind-the-wheel driving instruction that occurs during the nighttime hours falling between sunset and sunrise.** The [twenty] **forty** hours of behind-the-wheel driving instruction that is completed pursuant to this subsection may include any time that the holder of an instruction permit has spent operating a motor vehicle in a driver training program taught by a driver training instructor holding a valid driver education endorsement on a teaching certificate issued by the department of elementary and secondary education or by a qualified instructor of a private drivers' education program. If the applicant for a permit is enrolled in a federal residential job training program, the instructor, as defined in

subsection 5 of this section, is authorized to sign the application stating that the applicant will receive the behind-the-wheel driving instruction required by this section.

2. In the event the parent, grandparent or guardian of the person under sixteen years of age has a physical disability which prohibits or disqualifies said parent, grandparent or guardian from being a qualified licensed operator pursuant to this section, said parent, grandparent or guardian may designate a maximum of two individuals authorized to accompany the applicant for the purpose of giving instruction in driving the motor vehicle. An authorized designee must be a licensed operator for the type of motor vehicle being operated and have attained twenty-one years of age. At least one of the designees must occupy the seat beside the applicant while giving instruction in driving the motor vehicle. The name of the authorized designees must be provided to the department of revenue by the parent, grandparent or guardian at the time of application for the temporary instruction permit. The name of each authorized designee shall be printed on the temporary instruction permit, however, the director may delay the time at which permits are printed bearing such names until the inventories of blank permits and related forms existing on August 28, 1998, are exhausted.

3. The director, upon proper application on a form prescribed by the director, in his or her discretion, may issue a restricted instruction permit effective for a school year or more restricted period to an applicant who is enrolled in a high school driver training program taught by a driver training instructor holding a valid driver education endorsement on a teaching certificate issued by the state department of elementary and secondary education even though the applicant has not reached the age of sixteen years but has passed the age of fifteen years. Such instruction permit shall entitle the applicant, when the applicant has such permit in his or her immediate possession, to operate a motor vehicle on the highways, but only when a driver training instructor holding a valid driver education endorsement on a teaching certificate issued by the state department of elementary and secondary education is occupying a seat beside the driver.

4. The director, in his or her discretion, may issue a temporary driver's permit to an applicant who is otherwise qualified for a license permitting the applicant to operate a motor vehicle while the director is completing the director's investigation and determination of all facts relative to such applicant's rights to receive a license. Such permit must be in the applicant's immediate possession while operating a motor vehicle, and it shall be invalid when the applicant's license has been issued or for good cause has been refused.

5. In the event that the applicant for a temporary instruction permit described in subsection 1 of this section is a participant in a federal residential job training program, the permittee may operate a motor vehicle accompanied by a driver training instructor who holds a valid driver education endorsement issued by the department of elementary and secondary education and a valid driver's license.

6. A person at least fifteen years of age may operate a motor vehicle as part of a driver training program taught by a driver training instructor holding a valid driver education endorsement on a teaching certificate issued by the department of elementary and secondary education or a qualified instructor of a private drivers' education program.

7. Beginning January 1, 2003, the director shall issue with every temporary instruction permit issued pursuant to subsection 1 of this section a sticker or sign bearing the words "PERMIT DRIVER". The design and size of such sticker or sign shall be determined by the director by regulation. Every applicant issued a temporary instruction permit and sticker on or after January 1, 2003, may display or affix the sticker or sign on the rear window of the motor vehicle. Such sticker or sign may be displayed on the rear window of the motor vehicle whenever the holder of the instruction permit operates a motor vehicle during his or her temporary permit licensure period.

8. Beginning July 1, 2005, the director shall verify that an applicant for an instruction permit issued under this section is lawfully present in the United States before accepting the application. The director shall not issue an instruction permit for a period that exceeds an applicant's lawful presence in the United States. The director may establish procedures to verify

the lawful presence of the applicant and establish the duration of any permit issued under this section.

9. The director may adopt rules and regulations necessary to carry out the provisions of this section.

302.171. APPLICATION FOR LICENSE — FORM — CONTENT — EDUCATIONAL MATERIALS TO BE PROVIDED TO APPLICANTS UNDER TWENTY-ONE — VOLUNTARY CONTRIBUTION TO ORGAN DONATION PROGRAM — INFORMATION TO BE INCLUDED IN REGISTRY — VOLUNTARY CONTRIBUTION TO BLINDNESS ASSISTANCE — EXEMPTION FROM REQUIREMENT TO PROVIDE PROOF OF LAWFUL PRESENCE — ONE-YEAR RENEWAL, REQUIREMENTS. —

1. Beginning July 1, 2005, the director shall verify that an applicant for a driver's license is lawfully present in the United States before accepting the application. The director shall not issue a driver's license for a period that exceeds an applicant's lawful presence in the United States. The director may establish procedures to verify the lawful presence of the applicant and establish the duration of any driver's license issued under this section. An application for a license shall be made upon an approved form furnished by the director. Every application shall state the full name, Social Security number, age, height, weight, color of eyes, sex, residence, mailing address of the applicant, and the classification for which the applicant has been licensed, and, if so, when and by what state, and whether or not such license has ever been suspended, revoked, or disqualified, and, if revoked, suspended or disqualified, the date and reason for such suspension, revocation or disqualification and whether the applicant is making a one dollar donation to promote an organ donation program as prescribed in subsection 2 of this section. A driver's license, nondriver's license, or instruction permit issued under this chapter shall contain the applicant's legal name as it appears on a birth certificate or as legally changed through marriage or court order. No name change by common usage based on common law shall be permitted. The application shall also contain such information as the director may require to enable the director to determine the applicant's qualification for driving a motor vehicle; and shall state whether or not the applicant has been convicted in this or any other state for violating the laws of this or any other state or any ordinance of any municipality, relating to driving without a license, careless driving, or driving while intoxicated, or failing to stop after an accident and disclosing the applicant's identity, or driving a motor vehicle without the owner's consent. The application shall contain a certification by the applicant as to the truth of the facts stated therein. Every person who applies for a license to operate a motor vehicle who is less than twenty-one years of age shall be provided with educational materials relating to the hazards of driving while intoxicated, including information on penalties imposed by law for violation of the intoxication-related offenses of the state. Beginning January 1, 2001, if the applicant is less than eighteen years of age, the applicant must comply with all requirements for the issuance of an intermediate driver's license pursuant to section 302.178.

2. An applicant for a license may make a donation of one dollar to promote an organ donor program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the organ donor program fund established in sections 194.297 to 194.304, RSMo. Moneys in the organ donor program fund shall be used solely for the purposes established in sections 194.297 to 194.304, RSMo, except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for the license at the time of issuance or renewal of the license. The director shall make available an informational booklet or other informational sources on the importance of organ donations to applicants for licensure as designed by the organ donation advisory committee established in sections 194.297 to 194.304, RSMo. The director shall inquire of each applicant at the time the licensee presents the completed application to the director whether the applicant is interested in making the one dollar donation prescribed in this subsection and whether the applicant is interested in inclusion in the organ donor registry and shall also specifically inform the licensee

of the ability to consent to organ donation by completing the form on the reverse of the license that the applicant will receive in the manner prescribed by subsection 6 of section 194.240, RSMo. The director shall notify the department of health and senior services of information obtained from applicants who indicate to the director that they are interested in registry participation, and the department of health and senior services shall enter the complete name, address, date of birth, race, gender and a unique personal identifier in the registry established in subsection 1 of section 194.304, RSMo.

3. An applicant for a license may make a donation of one dollar to promote a blindness education, screening and treatment program. The director of revenue shall collect the donations and deposit all such donations in the state treasury to the credit of the blindness education, screening and treatment program fund established in section 192.935, RSMo. Moneys in the blindness education, screening and treatment program fund shall be used solely for the purposes established in section 192.935, RSMo, except that the department of revenue shall retain no more than one percent for its administrative costs. The donation prescribed in this subsection is voluntary and may be refused by the applicant for the license at the time of issuance or renewal of the license. The director shall inquire of each applicant at the time the licensee presents the completed application to the director whether the applicant is interested in making the one dollar donation prescribed in this subsection.

4. Beginning July 1, 2005, the director shall deny the driving privilege of any person who commits fraud or deception during the examination process or who makes application for an instruction permit, driver's license, or nondriver's license which contains or is substantiated with false or fraudulent information or documentation, or who knowingly conceals a material fact or otherwise commits a fraud in any such application. The period of denial shall be one year from the effective date of the denial notice sent by the director. The denial shall become effective ten days after the date the denial notice is mailed to the person. The notice shall be mailed to the person at the last known address shown on the person's driving record. The notice shall be deemed received three days after mailing unless returned by the postal authorities. No such individual shall reapply for a driver's examination, instruction permit, driver's license, or nondriver's license until the period of denial is completed. No individual who is denied the driving privilege under this section shall be eligible for a limited driving privilege issued under section 302.309.

5. All appeals of denials under this section shall be made as required by section 302.311.

6. The period of limitation for criminal prosecution under this section shall be extended under subdivision (1) of subsection 3 of section 556.036, RSMo.

7. The director may promulgate rules and regulations necessary to administer and enforce this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

8. Notwithstanding any provisions of this chapter that requires an applicant to provide proof of lawful presence for renewal of a noncommercial driver's license, noncommercial instruction permit, or nondriver's license, an applicant who is sixty-five years and older and who was previously issued a Missouri noncommercial driver's license, noncommercial instruction permit, or Missouri nondriver's license is exempt from showing proof of lawful presence.

9. Notwithstanding any other provision of this chapter, if an applicant does not meet the requirements of subsection 8 of this section and does not have the required documents to prove lawful presence, the department may issue a one-year driver's license renewal. This one time renewal shall only be issued to an applicant who previously has held a Missouri noncommercial driver's license, noncommercial instruction permit, or nondriver's license for a period of fifteen years or more and who does not have the required documents to prove lawful presence. After the expiration of the one-year period, no further renewal shall be provided without the applicant producing proof of lawful presence.

302.178. INTERMEDIATE DRIVER'S LICENSE, ISSUED TO WHOM, REQUIREMENTS, LIMITATIONS, FEE, DURATION, POINT ASSESSMENT — PENALTY, APPLICATION FOR FULL DRIVING PRIVILEGES, REQUIREMENTS — EXCEPTIONS — PENALTY — RULEMAKING AUTHORITY, PROCEDURE. — 1. [Beginning January 1, 2001,] Any person between the ages of sixteen and eighteen years who is qualified to obtain a license pursuant to sections 302.010 to 302.340 may apply for, and the director shall issue, an intermediate driver's license entitling the applicant, while having such license in his or her possession, to operate a motor vehicle of the appropriate class upon the highways of this state in conjunction with the requirements of this section. An intermediate driver's license shall be readily distinguishable from a license issued to those over the age of eighteen. All applicants for an intermediate driver's license shall:

- (1) Successfully complete the examination required by section 302.173;
- (2) Pay the fee required by subsection 3 of this section;
- (3) Have had a temporary instruction permit issued pursuant to subsection 1 of section 302.130 for at least a six-month period or a valid license from another state; and
- (4) Have a parent, grandparent, legal guardian, or, if the applicant is a participant in a federal residential job training program, a driving instructor employed by a federal residential job training program, sign the application stating that the applicant has completed at least [twenty] **forty** hours of supervised driving experience under a temporary instruction permit issued pursuant to subsection 1 of section 302.130, or, if the applicant is an emancipated minor, the person over twenty-one years of age who supervised such driving. For purposes of this section, the term "emancipated minor" means a person who is at least sixteen years of age, but less than eighteen years of age, who:
 - (a) Marries with the consent of the legal custodial parent or legal guardian pursuant to section 451.080, RSMo;
 - (b) Has been declared emancipated by a court of competent jurisdiction;
 - (c) Enters active duty in the armed forces;
 - (d) Has written consent to the emancipation from the custodial parent or legal guardian;or
 - (e) Through employment or other means provides for such person's own food, shelter and other cost-of-living expenses;
- (5) Have had no alcohol-related enforcement contacts as defined in section 302.525 during the preceding twelve months; and
- (6) Have no nonalcoholic traffic convictions for which points are assessed pursuant to section 302.302, within the preceding six months.

2. An intermediate driver's license grants the licensee the same privileges to operate that classification of motor vehicle as a license issued pursuant to section 302.177, except that no person shall operate a motor vehicle on the highways of this state under such an intermediate driver's license between the hours of 1:00 a.m. and 5:00 a.m. unless accompanied by a person described in subsection 1 of section 302.130; except the licensee may operate a motor vehicle without being accompanied if the travel is to or from a school or educational program or activity, a regular place of employment or in emergency situations as defined by the director by regulation.

3. Each intermediate driver's license shall be restricted by requiring that the driver and all passengers in the licensee's vehicle wear safety belts at all times. This safety belt restriction shall not apply to a person operating a motorcycle. **For the first six months after issuance of the intermediate driver's license, the holder of the license shall not operate a motor vehicle with more than one passenger who is under the age of nineteen who is not a member of the holder's immediate family. As used in this subsection, an intermediate driver's license holder's immediate family shall include brothers, sisters, stepbrothers or stepsisters of the driver, including adopted or foster children residing in the same household of the intermediate driver's license holder. After the expiration of the first six months, the holder of an intermediate driver's license shall not operate a motor vehicle with more than three**

passengers who are under nineteen years of age and who are not members of the holder's immediate family. The passenger restrictions of this subsection shall not be applicable to any intermediate driver's license holder who is operating a motor vehicle being used in agricultural work-related activities.

[3.] **4.** Notwithstanding the provisions of section 302.177 to the contrary, the fee for an intermediate driver's license shall be five dollars and such license shall be valid for a period of two years.

[4.] **5.** Any intermediate driver's licensee accumulating six or more points in a twelve-month period may be required to participate in and successfully complete a driver-improvement program approved by the director of the department of public safety. The driver-improvement program ordered by the director of revenue shall not be used in lieu of point assessment.

[5.] **6.** (1) An intermediate driver's licensee who has, for the preceding twelve-month period, had no alcohol-related enforcement contacts, as defined in section 302.525 and no traffic convictions for which points are assessed, upon reaching the age of eighteen years **or within the thirty days immediately preceding their eighteenth birthday** may apply for and receive without further examination, other than a vision test as prescribed by section 302.173, a license issued pursuant to this chapter granting full driving privileges. Such person shall pay the required fee for such license as prescribed in section 302.177.

(2) If an intermediate driver's license expires on a Saturday, Sunday, or legal holiday, such license shall remain valid for the five business days immediately following the expiration date. In no case shall a licensee whose intermediate driver's license expires on a Saturday, Sunday, or legal holiday be guilty of an offense of driving with an expired or invalid driver's license if such offense occurred within five business days immediately following an expiration date that occurs on a Saturday, Sunday, or legal holiday.

(3) The director of revenue shall deny an application for a full driver's license until the person has had no traffic convictions for which points are assessed for a period of twelve months prior to the date of application for license or until the person is eligible to apply for a six-year driver's license as provided for in section 302.177, provided the applicant is otherwise eligible for full driving privileges. An intermediate driver's license shall expire when the licensee is eligible and receives a full driver's license as prescribed in subdivision (1) of this section.

[6.] **7.** No person upon reaching the age of eighteen years whose intermediate driver's license and driving privilege is denied, suspended, canceled or revoked in this state or any other state, for any reason may apply for a full driver's license until such license or driving privilege is fully reinstated. Any such person whose intermediate driver's license has been revoked pursuant to the provisions of sections 302.010 to 302.540 shall, upon receipt of reinstatement of the revocation from the director, pass the complete driver examination, apply for a new license, and pay the proper fee before again operating a motor vehicle upon the highways of this state.

[7.] **8.** A person shall be exempt from the intermediate licensing requirements if the person has reached the age of eighteen years and meets all other licensing requirements.

[8.] **9.** **Any person who violates any of the provisions of this section relating to intermediate drivers' licenses or the provisions of section 302.130 relating to temporary instruction permits is guilty of an infraction, and no points shall be assessed to his or her driving record for any such violation.**

10. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.

302.720. OPERATION WITHOUT LICENSE PROHIBITED, EXCEPTIONS — INSTRUCTION PERMIT, USE, DURATION, FEE — LICENSE, TEST REQUIRED, CONTENTS, FEE — DIRECTOR TO PROMULGATE RULES AND REGULATIONS FOR CERTIFICATION OF THIRD-PARTY TESTERS — CERTAIN PERSONS PROHIBITED FROM OBTAINING LICENSE, EXCEPTIONS. — 1. Except when operating under an instruction permit as described in this section, no person may drive a commercial motor vehicle unless the person has been issued a commercial driver's license with applicable endorsements valid for the type of vehicle being operated as specified in sections 302.700 to 302.780. A commercial driver's instruction permit shall allow the holder of a valid license to operate a commercial motor vehicle when accompanied by the holder of a commercial driver's license valid for the vehicle being operated and who occupies a seat beside the individual, or reasonably near the individual in the case of buses, for the purpose of giving instruction in driving the commercial motor vehicle. A commercial driver's instruction permit shall be valid for the vehicle being operated for a period of not more than six months, and shall not be issued until the permit holder has met all other requirements of sections 302.700 to 302.780, except for the driving test. A permit holder, unless otherwise disqualified, may be granted one six-month renewal within a one-year period. The fee for such permit or renewal shall be five dollars. In the alternative, a commercial driver's instruction permit shall be issued for a thirty-day period to allow the holder of a valid driver's license to operate a commercial motor vehicle if the applicant has completed all other requirements except the driving test. The permit may be renewed for one additional thirty-day period and the fee for the permit and for renewal shall be five dollars.

2. No person may be issued a commercial driver's license until he has passed written and driving tests for the operation of a commercial motor vehicle which complies with the minimum federal standards established by the Secretary and has satisfied all other requirements of the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570), as well as any other requirements imposed by state law. Applicants for a hazardous materials endorsement must also meet the requirements of the U.S. Patriot Act of 2001 (Title X of Public Law 107-56) as specified and required by regulations promulgated by the Secretary. Nothing contained in this subsection shall be construed as prohibiting the director from establishing alternate testing formats for those who are functionally illiterate; provided, however, that any such alternate test must comply with the minimum requirements of the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570) as established by the Secretary.

(1) The written and driving tests shall be held at such times and in such places as the superintendent may designate. A twenty-five dollar examination fee shall be paid by the applicant upon completion of any written or driving test. The director shall delegate the power to conduct the examinations required under sections 302.700 to 302.780 to any member of the highway patrol or any person employed by the highway patrol qualified to give driving examinations.

(2) The director shall adopt and promulgate rules and regulations governing the certification of third-party testers by the department of revenue. Such rules and regulations shall substantially comply with the requirements of 49 CFR Part 383, Section 383.75. A certification to conduct third-party testing shall be valid for one year, and the department shall charge a fee of one hundred dollars to issue or renew the certification of any third-party tester.

(3) **Beginning August 28, 2006, the director shall only issue or renew third-party tester certification to junior colleges or community colleges established under chapter 178, RSMo, or to private companies who own, lease, or maintain their own fleet and administer in-house testing to their employees, or to school districts and their agents that administer in-house testing to the school district's or agent's employees.** Any third-party tester who violates any of the rules and regulations adopted and promulgated pursuant to this section shall be subject to having his certification revoked by the department. The department shall provide written notice and an opportunity for the third-party tester to be heard in substantially the same manner as provided in chapter 536, RSMo. If any applicant submits evidence that he has successfully completed a test administered by a third-party tester, the actual driving test for a commercial driver's license may then be waived.

[(3)] (4) Every applicant for renewal of a commercial driver's license shall provide such certifications and information as required by the secretary and if such person transports a hazardous material must also meet the requirements of the U.S. Patriot Act of 2001 (Title X of Public Law 107-56) as specified and required by regulations promulgated by the secretary[.]. Such person shall be required to take the written test for such endorsement. A twenty-five dollar examination fee shall be paid upon completion of such tests.

3. A commercial driver's license may not be issued to a person while the person is disqualified from driving a commercial motor vehicle, when a disqualification is pending in any state or while the person's driver's license is suspended, revoked, or canceled in any state; nor may a commercial driver's license be issued unless the person first surrenders in a manner prescribed by the director any commercial driver's license issued by another state, which license shall be returned to the issuing state for cancellation.

4. Beginning July 1, 2005, the director shall not issue an instruction permit under this section unless the director verifies that the applicant is lawfully present in the United States before accepting the application. The director may, by rule or regulation, establish procedures to verify the lawful presence of the applicant under this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure that Missouri's elderly citizens are able to traverse the highways of Missouri, the repeal and reenactment of section 302.171 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 302.171 of this act shall be in full force and effect upon its passage and approval.

Approved June 14, 2006
SB 1002 [HCS SB 1002]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows the imposition of an additional fee for drainage districts

AN ACT to amend chapter 242, RSMo, by adding thereto one new section relating to drainage districts.

SECTION

A. Enacting clause.

242.492. Processing fee authorized for certain assessed tracts, amount.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 242, RSMo, is amended by adding thereto one new section, to be known as section 242.492, to read as follows:

242.492. PROCESSING FEE AUTHORIZED FOR CERTAIN ASSESSED TRACTS, AMOUNT. — In addition to any maintenance tax imposed under section 242.490, the board of supervisors may set an annual processing fee for assessed tracts when the board determines that the costs of preparation and processing of the district's maintenance tax statement for such tracts exceed the amount of tax imposed. The amount of the fee shall be determined by the board of supervisors at the meeting in which the board sets the

maintenance tax under section 242.490. Such fee shall be used solely to reimburse the district for the costs associated with processing annual maintenance statements.

Approved July 10, 2006

SB 1003 [SCS#2 SB 1003]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes the Governor to convey state property

AN ACT to authorize the conveyance of certain state properties, with an emergency clause.

SECTION

1. Governor authorized to convey Troop C real property in St. Louis.
2. Governor authorized to convey real property in Lincoln County.
3. Governor authorized to convey real property located at 505 Washington in St. Louis.
4. Governor authorized to convey Greenberry Farms real property in Jefferson City.
5. Governor authorized to convey a portion of Green Valley State School real property in Springfield.
6. Governor authorized to convey Midtown State Office Building real property in St. Louis.
7. Governor authorized to convey state real property in St. Francois County to the Farmington American Legion Post 416.
8. Governor authorized to convey Troop A real property in Lee's Summit.
9. Governor authorized to convey state real property in Stoddard County to the Stoddard County Common Sewer District Number 1.
10. Governor authorized to convey state real property in St. Francois County to St. Francois County.
11. Governor authorized to convey state real property in Stoddard County to the City of Dexter.
12. Governor authorized to convey the Church Farm real property in Cole County.
- A. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION 1. GOVERNOR AUTHORIZED TO CONVEY TROOP C REAL PROPERTY IN ST. LOUIS. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release, and forever quitclaim all interest of the state of Missouri in real property known as Troop C, St. Louis, Missouri, more particularly described as follows: A tract of land in the Northeast quarter of the Southwest quarter of Section 17, Township 45 North, Range 5 East and bounded as follows: North by the East and West center section line of said Section 17, West by a 25 foot strip of land conveyed to John M. Hal by deed recorded in Book 1543, page 533 of the St. Louis County Records and South and East by property conveyed to State of Missouri by deeds recorded in Book 1385, page 236 and Book 5339, page 233 of St. Louis County Records containing 15.7 acres more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 2. GOVERNOR AUTHORIZED TO CONVEY REAL PROPERTY IN LINCOLN COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release, and forever quitclaim all interest of the state of Missouri in real property situated in the County of Lincoln, and State of Missouri, to-wit, more particularly described as follows:

A 5.434 tract of land within part of fractional Section 36 and part of U.S. Survey 452 township 49 North, Range 1 West of the 5th P.M. and being more particularly described as follows:

Commencing at the center of fractional section 36 thence south 61 degrees 14 minutes 40 seconds west 839.06 feet to a point; thence north 22 degrees 45 minutes 00 seconds west 208.63 feet to a point; thence north 53 degrees 58 minutes 20 seconds east 284.89 feet to the point of beginning of the tract herein described; thence north 58 degrees 26 minutes 10 seconds west 668.17 feet to a point; thence north 28 degrees 56 minutes 59 seconds east 319.88 feet to a point; thence south 58 degrees 24 minutes 14 seconds east 814.33 feet to a point; thence south 53 degrees 58 minutes 20 seconds west 345.15 feet to the point of the beginning.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 3. GOVERNOR AUTHORIZED TO CONVEY REAL PROPERTY LOCATED AT 505 WASHINGTON IN ST. LOUIS. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release, and forever quitclaim all interest of the state of Missouri in real property known as 505 Washington, St. Louis, Missouri, more particularly described as follows:

A Lot in Block 120 of the City of St. Louis, beginning at the Northwest corner of Broadway and Washington Avenue, thence Northwardly along the West line of Broadway 176 feet 5-3/4 inches to the South line of property now or formerly of Consalman, thence Westwardly along last mentioned line, being along a line parallel with and distant 50 feet 6 inches South of the South line of Lucas Avenue, a distance of 135 feet 1-3/8 inches to the East line of property now or formerly of Elisabeth Schnaider, thence Southwardly along the East line of property now or formerly of Elisabeth Schnaider 25 feet 1/2 inch to the South line of William Christy's Addition, thence Eastwardly along the South line of William Christy's Addition, 29 feet 10-5/8 inches to the Northeast corner of property now or formerly of E.O. Stanard Real Estate Company, thence Southwardly along the East line of property now or formerly of E.O. Stanard Real Estate Company, 151 feet 2-5/8 inches to the North line of Washington Avenue, thence Eastwardly along the North line of Washington Avenue 105 feet 4-5/8 inches to the point of beginning.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 4. GOVERNOR AUTHORIZED TO CONVEY GREENBERRY FARMS REAL PROPERTY IN JEFFERSON CITY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release, and forever quitclaim all interest of the state of Missouri in real property known as Greenberry Farms, Jefferson City, Missouri, more particularly described as follows:

Tract A-Book 306, Page 705: Part of Section 30, Township 44 North, Range 11 West, Cole County, Missouri, more particularly described as follows: From the North quarter corner of said Section 30; thence S04° 54'E along the quarter Section line, 365 feet to the Beginning Point of this description; thence N84° 21'E, 1361.16 feet to the West line of the East half of the Northeast quarter of said Section 30; thence with same, S05° 05'E, 2311.31 feet to the Southwest corner of the East half of the Northeast quarter of said Section 30; thence N84° 32'E along the quarter Section line, 1337.8 feet to the Southeast corner of the Northeast quarter of said Section 30; thence S05° 17'E along the Section line, 2638.0 feet,

more or less to the center of the Moreau River; thence Westerly along the Center of the Moreau River 2950 feet, more or less, to the quarter Section line; thence with same, N05°31'W, 2019.8 feet, more or less, to the Easterly line of a tract conveyed to the State of Missouri from Robert J. and Judy Iven, in Book 305, Page 391, Cole County Recorder's office; thence along said line, N24°39'E, 1341.12 feet; thence continuing along said Easterly line and the Northwesterly extension thereof N37°54'W, 1210.10 feet to a point on the quarter Section line; thence with same, N04°54'W, 633.14 feet to the Point of Beginning. Except that part that lies within Green Meadow Drive.

Tract B-Book 305, Page 391: Part of Section 30, Township 44 North, Range 11 West, Cole County, Missouri, more particularly described as follows: From the Southeast corner of Lot 24 of Iven's Addition, per Plat of Record in Plat Book 8, Page 115, Cole County Recorder's Office; thence S59°43'E along the Southerly line of Iven's addition, Section 2, Per Plat of Record in Plat 10, Page 58, Cole County Recorder's Office, and the Easterly Extension thereof, 965.74 feet to the Beginning Point of this description; thence S61°17'E, 394.28 feet; thence S79°14'E, 148.6 feet; thence N35°03'E, 283.92 feet; thence N14°32'W, 526.24 feet; thence N55°58'E, 19.26 feet to a Point on the Easterly line of a Tract described in a Deed to Robert J. Iven and wife of Record in Book 222, Page 509, Cole County Recorder's Office being the Westerly line of a Tract described in Deed to the Board of Curators of Lincoln University of Missouri of Record in Book 116, Page 25, Cole County Recorder's Office; thence along said line S37°54'E 530 feet to a pipe at a fence corner; thence continuing along a line between Robert Iven and Lincoln University Property S24°39'W, 1374.35 feet to a Point on the Northeasterly line of State Highway B; thence with same, N23°24'W, 276.5 feet to a Right-of-Way marker at Highway Station 96+00; thence continuing along said Highway N34°43'W, 163.54 feet to a Right-of-Way marker at Highway Station 94+50; thence continuing along said Highway on a curve to the left having a chord of N35°44'W, 449.55 feet; thence leaving said Highway N24°46'E along the Boundary of said Tract in Book 222, Page 509, 417.10 feet to the Point of Beginning.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 5. GOVERNOR AUTHORIZED TO CONVEY A PORTION OF GREENE VALLEY STATE SCHOOL REAL PROPERTY IN SPRINGFIELD. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release, and forever quitclaim all interest of the state of Missouri in real property known as a small tract of land approx. 5,072 sq. ft and 0.12 acres located at Greene Valley State School, more particularly described as follows:

Beginning at a point on the North Line of Pythian Street, 806.3 feet West of the West Line of Glenstone Avenue, as said streets are now established in the City of Springfield; Thence continuing along said North Line N88°17'47"W, a distance of 7.33 feet; Thence N01°42'13"E, a distance of 692.00 feet; thence S88°17'47"E, a distance of 7.33 feet; Thence S01°42'13"W, A distance of 692.00 feet to the point of the beginning. Being a part of the Southeast quarter (SE1/4) of the Northeast quarter (NE1/4) of Section 18, Township 29 North, Range 21 West, Springfield, Greene County, Missouri.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 6. GOVERNOR AUTHORIZED TO CONVEY MIDTOWN STATE OFFICE BUILDING REAL PROPERTY IN ST. LOUIS. — 1. The governor is hereby authorized and empowered

to sell, transfer, grant, convey, remise, release, and forever quitclaim all interest of the state of Missouri in real property known as the Midtown State Office Building. The property to be conveyed is more particularly described as follows:

A tract of land being part of Theresa Avenue, situated between City Blocks 1058 and 1059 and part of an Alley in City Block 1059 of the City of St. Louis, Missouri being more particularly described as follows:

Beginning at the intersection of the Southern Right of Way line of Olive Street, 60 feet wide, and the Eastern right of way line of Theresa Avenue, said point being the Northwestern corner of a tract of land conveyed to Saint Louis University by Deed recorded in Book M1236, Page 1254 of the St. Louis City Records; thence along said Eastern right of way line, South 14 degrees 58 minutes 48 seconds West, 71.02 feet to a point on the Northern Right of Way Line of Lindell Boulevard, 100 feet wide; thence along said Northern right of way line, North 74 degrees 03 minutes 53 seconds West, 48.50 feet to a point; thence North 75 degrees 14 minutes 42 seconds West, 186.03 feet to a point on the Western Line of that portion of Theresa Avenue established by City Ordinance Number 39980; thence along said Western Line, North 79 degrees 56 minutes 00 seconds East, 34.49 feet to a point; thence North 16 degrees 01 minute 30 seconds East, 20.21 feet to a point on the Southern Line of the ten foot wide alley in City Block 1059; thence along said Southern Line, North 68 degrees 25 minutes 15 seconds West, 150.63 feet to a point on the Eastern Line of that portion of the alley vacated by City Ordinance Number 58135; thence along said Eastern Line, North 16 degrees 07 minutes 00 seconds East, 10.05 feet to a point on the Northern Line of the ten foot wide alley; thence along said Northern line, South 68 degrees 25 minutes 15 seconds East, 165.24 feet to a point on the Southern line of a tract of land conveyed to Saint Louis University by Deed recorded in Book M1447, Page 1565 of the St. Louis City Records; thence along said Southern Line, South 16 degrees 12 minutes 47 seconds East, 13.92 feet to a point; thence South 68 degrees 25 minutes 12 seconds East, 10.69 feet to a point; thence North 87 degrees 38 minutes 51 seconds East, 73.55 feet to a point; thence North 48 degrees 23 minutes 44 seconds East 45.42 feet to a point on the Southern Right of Way Line of Olive Street, as aforementioned; thence along said Southern Right of Way Line, South 60 degrees 53 minutes 16 seconds East, 77.49 feet to the point of beginning, containing 13,594 square feet (0.312 acres, more or less).

2. The commissioner of administration shall set the terms and conditions for the sale of the property to St. Louis University as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the sale.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 7. GOVERNOR AUTHORIZED TO CONVEY STATE REAL PROPERTY IN ST. FRANCOIS COUNTY TO THE FARMINGTON AMERICAN LEGION POST 416. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in St. Francois County to the Farmington American Legion Post 416. The property to be conveyed is more particularly described as follows:

Part of Lots 75 and 76, and Wm. Alexander 300 ac Tract, all in U.S. Survey #2969, Township 35 North, Range 5 East, St. Francois County, Missouri. Commencing at an old iron pin marking the Northwest corner of Lot 62 of F. W. Rohlands subdivision of U.S. Survey #2969, Township 35 North, Range 5 East, thence South 13°21'30" West 1138.65' feet to a point at the intersection of the South right-of-way (ROW) of Missouri Route "W" and the approximate center of a small creek, being the point of beginning of the following described tract; thence with and down said creek South 12°04'09" East 58.82' feet to a set iron rod; thence with said creek South 14°41'36" West 318.63' feet to a set iron rod (capped LS1621); thence South 48°47'06" West 53.62' feet to a capped iron rod (capped

LS1621); thence South 32°50'04" West 184.21' feet to a point; thence South 00°27'18" East 58.77' feet to a point, thence South 56°51'31" West 103.27' feet set iron rod (capped LS1621); thence South 23°27'32" West 21.27' feet to a point, said point being located distant North 24°50'24" West 20.00' feet from a found old iron pipe being the Southeast corner of a 4.59 acre tract known as the "United States Army Reserve Center"; thence departing said creek along the east line of the aforementioned tract North 24°50'24" West 479.66' feet to a found ROW marker on the South ROW of the aforementioned Route "W"; thence along said ROW North 51°03'24" East 102.36' feet to found ROW marker; thence North 65°11'39" East 440.92' feet to a point; thence South 24°48'21" East 5.00' feet to a point; thence North 65°11'39" East 25.07' feet to the point of beginning and containing 4.10 Acres more or less except that part previously conveyed to the American Legion Post 416 and the Missouri Department of Transportation in Book No. 1309 pages 109-110, Book No. 1454 page 1296 and Book No. 1540 page 1326.

2. The commissioner of administration shall set the terms and conditions for the sale as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the sale.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 8. GOVERNOR AUTHORIZED TO CONVEY TROOP A REAL PROPERTY IN LEE'S SUMMIT. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release, and forever quitclaim all interest of the state of Missouri in real property known as Troop A, Lee's Summit, more particularly described as follows:

All that part of Section 8, Township 47., Range 31, in Lee's Summit, Jackson County, Missouri, described as follows: Beginning 30 feet, more or less, North and 25 feet West of the Southeast corner of the Southwest Quarter of the Northeast Quarter of said Section, thence North 526.69 feet, thence West 466.69 feet, thence South 526.69 feet, thence East 466.69 to the point of beginning, except parts thereof in highways.

2. The commissioner of administration shall set the terms and conditions for the sale as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the sale.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 9. GOVERNOR AUTHORIZED TO CONVEY STATE REAL PROPERTY IN STODDARD COUNTY TO THE STODDARD COUNTY COMMON SEWER DISTRICT NUMBER 1. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in Stoddard County to the Stoddard County Common Sewer District Number 1. The property to be conveyed is more particularly described as follows:

Part of Lot #1 of the SW 1/4 of Sec. 19, Twp. 25 North, R. 10 East, described as follows: Start at the SE corner of Lot #1 of the SW 1/4 of Sec. 19, Twp. 25 North, R.10 East; thence west along the section line, 211 feet, thence north 522.97 feet for a point of beginning. Thence west 266.3 feet; thence north parallel to the east line of the aforesaid SW 1/4, 480 feet to the railroad right-of-way; thence North 85 degrees 25 minutes East along and with the railroad right-of-way 267.15 feet; thence south 501.35 feet to the point of beginning. Containing 3.0 acres.

Part of Lot #1 of the SW 1/4 of Sec. 19, Twp. 25 North, R. 10 East, described as follows: Start at the SE corner of Lot #1 of the SW 1/4 of Sec. 19, Twp. 25 North, R.10 East; thence west along the section line, 211 feet for a point of beginning. Thence west 50 feet; thence north parallel to the east line of the aforesaid SW 1/4, 522.97 feet; thence East 50 feet; thence south 522.97 feet to the point of beginning.

2. The state of Missouri reserves a reversionary interest in the property described in subsection 1 of this section if the Stoddard County Common Sewer District Number 1 does not use the property for a public purpose. If the Stoddard County Common Sewer District Number 1 fails to comply with the provisions of this subsection, the property shall revert to the state of Missouri.

3. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

4. The attorney general shall approve as to form the instrument of conveyance.

SECTION 10. GOVERNOR AUTHORIZED TO CONVEY STATE REAL PROPERTY IN ST. FRANCOIS COUNTY TO ST. FRANCOIS COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in St. Francois County to St. Francois County. The property to be conveyed is more particularly described as follows:

All of the following described real estate situated in the City of Farmington, St. Francois County, State of Missouri:

All of that part of Lot Eighty-Five (85) of Rohland's Subdivision of U. S. Survey 2969, described as follows to-wit: From the Northeast corner of Lot 70 of Rohland's Subdivision of U. S. Survey 2969, Township 35 North, Range 5 East; thence South $07^{\circ} 21' 31''$ West, 2347.70 feet to a point; thence North $82^{\circ} 21' 34''$ West, 1803.93 feet a point; thence South $08^{\circ} 01' 10''$ West 460.00 feet to the beginning of this description; thence North $81^{\circ} 58' 50''$ West 453.00 feet to a point; thence South $08^{\circ} 01' 10''$ West app 1080 feet to a point on the South Line of Lot 85 of Rohland's Subdivision; thence along the South Line of Lot 85, 453 feet to a point; thence North $08^{\circ} 01' 10''$ East app 1080 to the point of beginning.

2. The commissioner of administration shall set the terms and conditions for the sale as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required and the time, place, and terms of the sale.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 11. GOVERNOR AUTHORIZED TO CONVEY STATE REAL PROPERTY IN STODDARD COUNTY TO THE CITY OF DEXTER. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest in fee simple absolute in property owned by the state in Stoddard County to the City of Dexter. The property to be conveyed is more particularly described as follows:

Part of Lot #1 of the SW 1/4 of Sec. 19, Twp. 25 North, R. 10 East, described as follows: Start at the SE corner of Lot #1 of the SW 1/4 of Sec. 19, Twp 25 North, R. 10 East; thence west along the section line, 261 feet for a point of beginning. Thence west 216.3 feet; thence north parallel to the east line of the aforesaid SW 1/4, 522.97 feet; thence East 216.3 feet; thence south parallel to the east line of the aforesaid SW 1/4 522.97 feet to the point of beginning. Containing 2.597 acres more or less.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 12. GOVERNOR AUTHORIZED TO CONVEY THE CHURCH FARM REAL PROPERTY IN COLE COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release, and forever quitclaim all interest of the state of Missouri in real property known as the Church Farm, County of Cole and State of Missouri, more particularly described as follows:

TRACT 2

Part of the Northeast Quarter, all the East Half of the Northwest Quarter and all of the Northwest Quarter of the Northwest Quarter of Section 24, Township 45 North, Range 13 West, part of the Southwest Quarter and part of the Southeast Quarter of Section 13, Township 45 North, Range 13 West, part of the Northwest Quarter, part of the West Half of the Northeast Quarter, part of the West Half of the Southeast Quarter, part of the East Half of the Southeast Quarter of the Southwest Quarter and all of the North Half of the Southwest Quarter of Section 19, Township 45 North, Range 12 West, Cole County, Missouri, more particularly described as follows:

BEGINNING at the east quarter corner of the aforesaid Section 24, Township 45 North, Range 13 West; thence N88°16'58"W, along the Quarter Section Line, 2661.16 feet to the center of said Section 24; thence N88°24'46"W, along the Quarter Section Line, 1319.23 feet to the southwest corner of the East Half of the Northwest Quarter of said Section 24; thence N1°40'05"E, along the Quarter Quarter Section Line, 1323.95 feet to the Southeast corner of the Northwest Quarter of the Northwest Quarter of said Section 24; thence N88°19'45"W, along the Quarter Quarter Section Line, 1321.65 feet to the southwest corner of the Northwest Quarter of the Northwest Quarter of said Section 24; thence N1°33'47"E, along the Section Line, 1325.88 feet to the southwest corner of the aforesaid Section 13, Township 45 North, Range 13 West; thence N1°04'17"E, along the Section Line, 1933.85 feet to a point intersecting the southerly line of the Missouri State Highway 179 right-of-way; thence Easterly, along said right-of-way line, the following courses: S85°51'30"E, 6.04 feet; thence Southeasterly, on a curve to the right, having a radius of 1392.76 feet, an arc distance of 837.42 feet, (the chord of said curve being S68°38'00"E, 824.86 feet); thence S51°24'30"E, 445.23 feet to the northwesterly corner of a certain 2.0 acre tract described by deed of record in Book 523, page 330, Cole County Recorder's Office; thence leaving the southerly line of the aforesaid Missouri State Highway 179 right-of-way, along the boundary of said 2.0 acre tract the following courses: S38°35'30"W, 250.0 feet; thence S51°24'30"E, 348.48 feet; thence N38°35'30"E, 250.0 feet to a point intersecting the southerly line of the aforesaid Missouri State Highway 179 right-of-way; thence leaving the boundary of said 2.0 acre tract described in Book 523, page 330, along said right-of-way line the following courses: S51°24'30"E, 407.79 feet; thence Easterly, on a curve to the left, having a radius of 995.40 feet, an arc distance of 1085.00 feet, (the chord of said curve being S82°38'05"E, 1032.08 feet); thence N66°08'20"E, 291.10 feet; thence Easterly, on a curve to the right, having a radius of 915.40 feet, an arc distance of 845.10 feet, (the chord of said curve being S87°24'48"E, 815.40 feet); thence S52°16'32"E, 107.98 feet; thence S54°11'40"E, 317.10 feet; thence S35°48'20"W, 50.00 feet; thence S63°24'20"E, 374.83 feet; thence S54°11'40"E, 4571.41 feet; thence Southeasterly, on a curve to the left, having a radius of 1955.79 feet, an arc distance of 921.70 feet, (the chord of said curve being S67°41'43"E, 913.20 feet); thence S81°11'46"E, 369.20 feet; thence Southeasterly, on a curve to the right, having a radius of 1870.10 feet, an arc distance of 103.54 feet, (the chord of said curve being S79°36'36"E, 103.53 feet) to a point intersecting the east line of the West Half of the Southeast Quarter of the aforesaid Section 19; thence leaving the southerly line of the aforesaid Missouri State Highway 179 right-of-way, S2°57'28"W, along the Quarter Quarter Section Line, 2615.96 feet to the southeast corner of the West Half of the Southeast Quarter of the aforesaid Section 19, Township 45 North, Range 12 West; thence N87°18'24"W, along the Section Line, 2.13 feet to a point intersecting the Northerly line of a 60 foot wide Cole County public road right-of-way known as Wade Road and described in Book 408, page 573, Cole County Recorder's Office; thence Westerly, along said right-of-way line, the following courses: Northwesterly, on a curve to the left, having a radius of 225.97 feet, an arc distance of 27.80 feet, (the chord of said curve being N67°54'24"W, 27.78 feet); thence N71°25'51"W, 42.80 feet; thence Northwesterly, on a curve to the right, having a radius of 370.00 feet, an arc distance of 258.52 feet, (the chord

of said curve being N51°24'51"W, 253.30 feet); thence N31°23'51"W, 201.55 feet; thence Northwesterly, on a curve to the left, having a radius of 400.00 feet, an arc distance of 161.27 feet, (the chord of said curve being N42°56'51"W, 160.18 feet); thence N54°29'51"W, 79.59 feet; thence Northwesterly, on a curve to the right, having a radius of 1970.00 feet, an arc distance of 170.20 feet, (the chord of said curve being N52°01'21"W, 170.15 feet); thence N49°32'51"W, 282.84 feet; thence N52°13'51"W, 135.50 feet; thence Northwesterly, on a curve to the left, having a radius of 930.00 feet, an arc distance of 162.86 feet, (the chord of said curve being N57°14'51"W, 162.65 feet); thence N62°15'51"W, 94.99 feet; thence Northwesterly, on a curve to the left, having a radius of 280.00 feet, an arc distance of 99.04 feet, (the chord of said curve being N72°23'51"W, 98.53 feet); thence N82°31'51"W, 144.35 feet; thence Southwesterly, on a curve to the left, having a radius of 280.00 feet, an arc distance of 297.37 feet, (the chord of said curve being S67°02'39"W, 283.59 feet); thence S36°37'09"W, 332.65 feet; thence Southwesterly, on a curve to the right, having a radius of 250.00 feet, an arc distance of 107.27 feet, (the chord of said curve being S48°54'39"W, 106.44 feet); thence S61°12'09"W, 83.39 feet to a point intersecting the west line of the East Half of the Southeast Quarter of the Southwest Quarter of the aforesaid Section 19; thence leaving the northerly line of the aforesaid Wade Road right-of-way, N2°11'36"E, along the west line of the East Half of the Southeast Quarter of the Southwest Quarter of said Section 19, 846.39 feet to the northwest corner thereof; thence N87°38'52"W, along the Quarter Quarter Section Line, 2149.28 feet to the southwest corner of the North Half of the Southwest Quarter of said Section 19; thence N1°29'12"E, along the Range Line, 1017.72 feet to the POINT OF BEGINNING.
Containing 654.14 acres.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION A. EMERGENCY CLAUSE. — Because immediate action is necessary to continue economic development efforts, sections 1 to 12 of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and sections 1 to 12 of this act shall be in full force and effect upon its passage and approval.

Approved June 12, 2006

SB 1008 [SCS SB 1008]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates the Governor's Advisory Council on Agricultural Science and Technology

AN ACT to amend chapter 620, RSMo, by adding thereto one new section relating to the governor's advisory council on agricultural science and technology.

SECTION

A. Enacting clause.

620.1500. Governor's advisory council on agriculture science and technology created, members, duties, expenses.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 620, RSMo, is amended by adding thereto one new section, to be known as section 620.1500, to read as follows:

620.1500. GOVERNOR'S ADVISORY COUNCIL ON AGRICULTURE SCIENCE AND TECHNOLOGY CREATED, MEMBERS, DUTIES, EXPENSES. — 1. There is hereby created within the department of economic development the "Governor's Advisory Council on Agriculture Science and Technology". The council shall consist of seven members. Two members shall be Missouri farmers, of which one member shall be a Missouri grain producer and one member shall be a Missouri livestock producer. The members of the council shall be appointed by and serve at the pleasure of the governor. The governor shall appoint one of the members as chairperson. At the council's discretion, it may call upon experts for advice and consultation on the issues in question.

2. The council's duties shall include, but not be limited to the following, as they relate to agricultural science and technology:

(1) Apprising the governor of new developments in the scientific and technological communities;

(2) Providing scientific inquiry into regulatory matters, upon the governor's request;

(3) Identifying strengths, weaknesses, and long-term needs of the state regarding science and technology;

(4) Predicting potential economic opportunities for the state in the plant biotechnology industry; and

(5) Apprising the governor of new developments in forestry technologies.

3. The members of the council shall serve without compensation except that the members shall be reimbursed for reasonable travel and meeting expenses related to the functions of the council.

Approved June 14, 2006

SB 1014 [CCS#2 HCS SS#2 SCS SBs 1014 & 730]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies law relating to election administration

AN ACT to repeal sections 115.105, 115.124, 115.126, 115.159, 115.163, 115.223, 115.225, 115.237, 115.247, 115.249, 115.427, 115.430, 115.431, 115.439, 115.445, 115.449, 115.453, and 115.631, RSMo, and to enact in lieu thereof twenty-two new sections relating to election administration, with penalty provisions and an emergency clause for a certain section.

SECTION

- A. Enacting clause.
- 115.002. Citation of law.
- 115.024. Elections rescheduled or relocated due to disaster, definition — election panel established — petition to reschedule or relocate, contents — order — notice, contents — ballots — procedures — appeal.
- 115.105. Challengers, how selected, qualifications — challenges, when made — challengers may collect certain information at presidential primary elections — challenges, how made.
- 115.124. Nonpartisan election in political subdivision or special district, no election required if number of candidates filing is same as number of positions to be filled — exceptions — random drawing filing procedure followed when election is required.
- 115.159. Registration by mail — delivery of absentee ballots, when — provisional ballot by mail permitted, when.
- 115.163. Precinct register required — voter notification cards, procedures and uses — list of registered voters available, fee.
- 115.203. Prohibitions and requirements governing voter registration applications — penalty.
- 115.205. Voter registration solicitors, registration — required information — oath — penalty, acceptance of applications.
- 115.219. Complaints of certain elections violations — procedure, contents — copy of complaint — consolidation of complaints — investigation and hearing — report — contents of report — remedy.
- 115.225. Automated equipment to be approved by secretary of state — standards to be met — rules, promulgation, procedure.
- 115.237. Ballots, contents of — form of — straight political party ticket voting prohibited — rulemaking authority.
- 115.247. Election authority to provide all ballots — error in ballot, procedure to correct — number of ballots provided — return of unused ballots — all ballots printed at public expense.
- 115.249. Standards required of voting machines.
- 115.427. Voter to present form of personal identification, acceptable identification — notice of identification requirements and procedures — affidavit, provisional ballot — form — provisional ballot when identity not verified, counted when — advance notice — payment of fee not required, when, mobile processing system — report — voter identification certificate — rulemaking authority — mark in lieu of signature permitted, when — voters without identification, provisional ballot, procedures — affidavit form — effective and expiration dates.
- 115.430. Provisional ballots, used when, exceptions, procedure, counted when, how — rulemaking authority — free access system established — provisional ballot only used, when — no jurisdiction in state courts to extend polling hours.
- 115.431. Identification certificates to be initialed by judges and preserved as poll lists.
- 115.439. Procedure for voting paper ballot — rulemaking authority.
- 115.445. No one but voter in booth, exception.
- 115.449. Ballots, when and how counted.
- 115.453. Procedure for counting votes for candidates.
- 115.456. Responsibilities of election authority, counting punch card ballots — counting optical scan ballots — counting paper ballots — write-in stickers — marks indicating political party preference, how construed.
- 115.631. Class one election offenses.
- 115.126. Advance voting period prior to general elections in presidential election years — election authorities to establish plan to implement, requirements — rulemaking authority.
- 115.223. Appeal of removal by voter, procedure.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 115.105, 115.124, 115.126, 115.159, 115.163, 115.223, 115.225, 115.237, 115.247, 115.249, 115.427, 115.430, 115.431, 115.439, 115.445, 115.449, 115.453, and 115.631, RSMo, are repealed and twenty-two new sections enacted in lieu thereof, to be known as sections 115.002, 115.024, 115.105, 115.124, 115.159, 115.163, 115.203, 115.205, 115.219, 115.225, 115.237, 115.247, 115.249, 115.427, 115.430, 115.431, 115.439, 115.445, 115.449, 115.453, 115.456, and 115.631, to read as follows:

115.002. CITATION OF LAW. — Sections 115.002, 115.024, 115.105, 115.124, 115.159, 115.163, 115.203, 115.205, 115.219, 115.225, 115.237, 115.247, 115.249, 115.427, 115.430, 115.431, 115.439, 115.445, 115.449, 115.453, 115.456, and 115.631, may be cited as the "Missouri Voter Protection Act".

115.024. ELECTIONS RESCHEDULED OR RELOCATED DUE TO DISASTER, DEFINITION — ELECTION PANEL ESTABLISHED — PETITION TO RESCHEDULE OR RELOCATE, CONTENTS — ORDER — NOTICE, CONTENTS — BALLOTS — PROCEDURES — APPEAL. — **1.** As used in this section, "disaster" means any catastrophic or natural disaster, statewide or nationwide emergency, man-made disaster, civil disorder, insurgency, bioterrorism attack, terrorist attack, or enemy attack.

2. The supreme court shall by rule establish a panel in each district of each court of appeals of the state to consider petitions filed under this section. Each panel shall consist of three court of appeals judges from such district, and shall be known as the "Election Panel" of the district in which it is established.

3. In the event that any disaster prohibits any election from occurring on the day the election is required to be held under this chapter, the election authority of the city or county in which the election was to be held may petition the election panel of the district in which the city or county is located for the election panel to authorize a relocation of the polling places affected by such disaster, or to schedule a new date upon which the election authority may conduct the election. The petition shall include the following:

- (1) A description of the event prohibiting the election from occurring;
- (2) A statement of the reasons the election cannot be held on the day required by law;
- (3) The election authority's recommendation for relocation of the polling places or the new date upon which the election shall be held;
- (4) A statement of the plan for providing notice to voters of the new location or new date of the election;
- (5) A statement that the election authority will be able to conduct the election at the recommended location or on the recommended new date in the same manner as the election would have been conducted had the disaster not occurred.

4. If satisfied that the election authority will be unable to conduct the election as required by this chapter and that the recommended relocation of the polling places or new date of the election will allow voters to vote as provided by law, the election panel shall issue an order to the election authority to relocate the polling places or to conduct the election on the new date as set by the election panel.

5. The election authority shall provide notice to all voters in the election authority's jurisdiction in the same manner as required for elections by this chapter, provided that the requirements for the date and time of providing such notice in this chapter shall not apply. Notice of the election shall include a copy of the order issued by the election panel.

6. The election authority may use the same ballots that were printed for the election that was relocated or rescheduled under this section, unless such ballots were damaged, destroyed, lost, or spoiled by the disaster.

7. All procedures for voting, counting of votes, and contesting elections required under this section shall apply to any election relocated or rescheduled under this section,

provided that any requirements for deadlines under this chapter that cannot be met because of the relocation or rescheduling of the election shall be rescheduled by the election panel.

8. The election authority may appeal any order issued by the election panel under this section to the supreme court, and the supreme court shall hear such appeal immediately.

115.105. CHALLENGERS, HOW SELECTED, QUALIFICATIONS — CHALLENGES, WHEN MADE — CHALLENGERS MAY COLLECT CERTAIN INFORMATION AT PRESIDENTIAL PRIMARY ELECTIONS — CHALLENGES, HOW MADE. —

1. The chair of the county committee of each political party named on the ballot shall have the right to designate a challenger for each polling place, who may be present during the hours of voting, and a challenger for each location at which absentee ballots are counted, who may be present while the ballots are being prepared for counting and counted. No later than four business days before the election, the chair of each county committee of each political party named on the ballot shall provide signed official designation forms with the names of the designated challengers and substitutes to the local election authority for confirmation of eligibility to serve as a challenger. The local election authority, after verifying the eligibility of each designated and substitute challenger, shall sign off on the official designation forms, unless the challenger is found not to have the qualifications established by subsection 5 of this section. If the election authority determines that a challenger does not meet the qualifications of subsection 5 of this section, the designating party chair may designate a replacement challenger and provide the local election authority with the name of the replacement challenger before 5:00 p.m. of the Monday preceding the election. The designating chair may substitute challengers at his or her discretion during such hours.

2. Challenges may only be made when the challenger believes the election laws of this state have been or will be violated, and each challenger shall report any such belief to the election judges, or to the election authority if not satisfied with the decision of the election judges.

3. Prior to the close of the polls, challengers may list and give out the names of those who have voted. The listing and giving out of names of those who have voted by a challenger shall not be considered giving information tending to show the state of the count.

4. In a presidential primary election, challengers may collect information about the party ballot selected by the voter and may disclose party affiliation information after the polls close.

5. All persons selected as challengers shall have the same qualifications required by section 115.085 for election judges, except that such challenger shall be a registered voter in the jurisdiction of the election authority for which the challenger is designated as a challenger.

6. **Any challenge by a challenger to a voter's identification for validity shall be made only to the election judges or other election authority. If the poll challenger is not satisfied with the decision of the election judges, then he or she may report his or her belief that the election laws of this state have been or will be violated to the election authority as allowed under section 115.105.**

115.124. NONPARTISAN ELECTION IN POLITICAL SUBDIVISION OR SPECIAL DISTRICT, NO ELECTION REQUIRED IF NUMBER OF CANDIDATES FILING IS SAME AS NUMBER OF POSITIONS TO BE FILLED — EXCEPTIONS — RANDOM DRAWING FILING PROCEDURE FOLLOWED WHEN ELECTION IS REQUIRED. —

1. Notwithstanding any other law to the contrary, in a nonpartisan election in any political subdivision or special district except for municipal [and board of trustees of community college districts] elections, if the notice provided for in subsection 5 of section 115.127 has been published in at least one newspaper of general circulation in the district, and if the number of candidates who have filed for a particular office is equal to the number of positions in that office to be filled by the election, no election shall be held for such office, and the candidates shall assume the responsibilities of their offices at the same time and in the same manner as if they had been elected. Notwithstanding any other

provision of law to the contrary, if at any election the number of candidates filing for a particular office exceeds the number of positions to be filled at such election, the election authority shall hold the election as scheduled, even if a sufficient number of candidates withdraw from such contest for that office so that the number of candidates remaining after the filing deadline is equal to the number of positions to be filled.

2. The election authority or political subdivision responsible for the oversight of the filing of candidates in any nonpartisan election in any political subdivision or special district shall clearly designate where candidates shall form a line to effectuate such filings and determine the order of such filings; except that, in the case of candidates who file a declaration of candidacy with the election authority or political subdivision prior to 5:00 p.m. on the first day for filing, the election authority or political subdivision may determine by random drawing the order in which such candidates' names shall appear on the ballot. If a drawing is conducted pursuant to this subsection, it shall be conducted so that each candidate may draw a number at random at the time of filing. If such drawing is conducted, the election authority or political subdivision shall record the number drawn with the candidate's declaration of candidacy. If such drawing is conducted, the names of candidates filing on the first day of filing for each office on each ballot shall be listed in ascending order of the numbers so drawn.

115.159. REGISTRATION BY MAIL — DELIVERY OF ABSENTEE BALLOTS, WHEN — PROVISIONAL BALLOT BY MAIL PERMITTED, WHEN. — 1. Any person who is qualified to register in Missouri shall, upon application, be entitled to register by mail. Upon request, application forms shall be furnished by the election authority or the secretary of state.

2. [Notwithstanding any provision of law to the contrary, the election authority shall not deliver any voter identification card to any person who registers to vote by mail until after such person has voted, in person, after presentation of a proper form of identification, for the first time following registration at the new polling place designated by the election authority. An individual who has registered to vote by mail and who desires to vote in person, but who does not present a proper form of identification for the first time following registration, may cast a provisional ballot. Such provisional ballot shall not be counted pursuant to this chapter, and the individual shall be notified of the reason for not counting the ballot.

3.] Notwithstanding any provision of law to the contrary, the election authority shall not deliver any absentee ballot to any person who registers to vote by mail until after such person has:

(1) Voted, in person, after presentation of a proper form of identification set out in section 115.427, for the first time following registration; or

(2) Provided a copy of identification set out in section 115.427 to the election authority. This subsection shall not apply to those persons identified in section 115.283 who are exempted from obtaining a notary seal or signature on their absentee ballots. An individual who has registered to vote by mail but who does not meet the requirements of this subsection may cast a provisional ballot by mail. Such ballot shall not be counted pursuant to this chapter, and the individual shall be notified of the reason for not counting the ballot.

[4. Subsections 2 and 3] **3. Subsection 2** of this section shall not apply in the case of a person:

(1) Who registers to vote by mail pursuant to Section 6 of the National Voter Registration Act of 1993 and submits **a copy of a current and valid photo identification** as part of such registration [either:

(a) A copy of a current and valid photo identification; or

(b) A copy of a current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter];

(2) Who registers to vote by mail pursuant to Section 6 of the National Voter Registration Act of 1993 and:

- (a) Submits with such registration either a driver's license number, or at least the last four digits of the individual's Social Security number; and
- (b) With respect to whom the secretary of state matches the information submitted pursuant to paragraph (a) of this subdivision with an existing state identification record bearing the same number, name, and date of birth as provided in such registration;
- (3) Who is:
 - (a) Entitled to vote by absentee ballot pursuant to the Uniformed and Overseas Citizens Absentee Voting Act;
 - (b) Provided the right to vote otherwise than in person pursuant to Section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act; or
 - (c) Entitled to vote otherwise than in person pursuant to any other federal law.

115.163. PRECINCT REGISTER REQUIRED — VOTER NOTIFICATION CARDS, PROCEDURES AND USES — LIST OF REGISTERED VOTERS AVAILABLE, FEE. — 1. Each election authority shall [arrange one set of registration cards into permanent binders] **use the "Missouri voter registration system" established by section 115.158 to prepare a list of legally registered voters** for each precinct[, or it may authorize the creation of computerized lists for each precinct]. The [computerized lists or binder] **list** shall be arranged alphabetically or by street address as the election authority determines and shall be known as the "precinct register". [At least one set of registration cards shall be arranged in a central file in such a manner as the election authority determines, and shall be known as the "headquarters register". The election authority shall be the custodian of the registration records, and no cards or records shall be removed or handled except at its direction and under its supervision.] The precinct registers shall be kept by the election authority in a secure place, except when given to election judges for use at an election. Except as provided in subsection 2 of section 115.157, all registration records shall be open to inspection by the public at all reasonable times.

2. [In counties using computer printouts as precinct registers,] A new [computer printout] **precinct register** shall be [printed] **prepared by the election authority** prior to each election.

3. [In those counties using computer printouts as precinct registers,] The election authority shall send to each voter a voter [identification] **notification** card no later than ninety days prior to the date of a primary or general election for federal office, unless the voter has received such a card during the preceding six months. The voter [identification] **notification** card shall contain the voter's name, address, **and** precinct [and a signature line]. The card **also shall inform the voter of the personal identification requirement in section 115.427 and** may also contain other voting information at the discretion of the election authority. [The voter shall be instructed to sign the card for use as identification at the polls.] The voter [identification] **notification** card shall be sent to a voter after a new registration or a change of address. If any voter shall lose his voter [identification] **notification** card, he may request a new one from the election authority. The voter [identification] **notification** card authorized pursuant to this section may be used as a canvass of voters in lieu of the provisions set out in sections 115.179 to 115.193. Except as provided in subsection 2 of section 115.157, anyone, upon request and payment of a reasonable fee, may obtain a printout, list and/or computer tape of those newly registered voters or voters deleted from the voting rolls, since the last canvass or updating of the rolls. The election authority may authorize the use of the postal service contractors under the federal National Change of Address program to identify those voters whose address is not correct on the voter registration records. The election authority shall not be required to mail a voter registration card to those voters whose addresses are incorrect. Confirmation notices to such voters required by section 115.193 shall be sent to the corrected address provided by the National Change of Address program.

115.203. PROHIBITIONS AND REQUIREMENTS GOVERNING VOTER REGISTRATION APPLICATIONS—PENALTY. — 1. No person shall pay or otherwise compensate any other person for registering voters based on the number of:

- (1) Voters registered by the other person;
- (2) Voter registration applications collected by the other person; or
- (3) Voter registration applications submitted to election officials by the other person.

2. No person shall receive or accept payment or any other compensation from any other person for registering voters based on the number of:

- (1) Voters registered by the person receiving or accepting payment or other compensation;
- (2) Voter registration applications collected by the person receiving or accepting payment or other compensation;
- (3) Voter registration applications submitted to election officials by the person receiving or accepting payment or other compensation.

3. No person who agrees or offers to submit a voter registration application for another person shall knowingly destroy, deface, or conceal such voter registration application.

4. Any person who accepts or receives a voter registration application from another person and agrees or offers to submit such application to the election authority for the registrant shall deliver the application to the election authority within seven days of accepting or receiving the application.

5. A violation of this section is a class four election offense.

115.205. VOTER REGISTRATION SOLICITORS, REGISTRATION — REQUIRED INFORMATION — OATH — PENALTY, ACCEPTANCE OF APPLICATIONS. — 1. Any person who is paid or otherwise compensated for soliciting more than ten voter registration applications, other than a governmental entity or a person who is paid or compensated by a governmental entity for such solicitation, shall be registered with the secretary of state as a voter registration solicitor. A voter registration solicitor shall register for every election cycle that begins on the day after the general election and ends on the day of the general election two years later. A voter registration solicitor shall be at least eighteen years of age and shall be a registered voter in the state of Missouri.

2. Each voter registration solicitor shall provide the following information in writing to the secretary of state's office:

- (1) The name of the voter registration solicitor;
- (2) The residential address, including street number, city, state, and zip code;
- (3) The mailing address, if different from the residential address;
- (4) Whether the voter registration solicitor expects to be paid for soliciting voter registrations;
- (5) If the voter registration solicitor expects to be paid, the identity of the payor; or
- (6) The signature of the voter registration solicitor.

3. The solicitor information required in subsection 2 of this section shall be submitted to the secretary of state's office with the following oath and affirmation: "I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT."

4. Any voter registration solicitor who knowingly fails to register with the secretary of state is guilty of a class three election offense. Voter registration applications shall be accepted by the election authority if such applications are otherwise valid, even if the voter registration solicitor who procured the applications fails to register with or submits false information to the secretary of state.

115.219. COMPLAINTS OF CERTAIN ELECTIONS VIOLATIONS — PROCEDURE, CONTENTS — COPY OF COMPLAINT — CONSOLIDATION OF COMPLAINTS — INVESTIGATION AND HEARING — REPORT — CONTENTS OF REPORT — REMEDY. — 1. Any person who believes a violation of any provision of Title III of the Help America Vote Act of 2002 (HAVA), 42 U.S.C. Sections 15481 to 15485, as amended, has occurred, is occurring, or is about to occur may file a complaint with the elections division of the secretary of state's office.

2. Any complaint filed under this section shall:

(1) Be in writing, signed, and sworn to before a notary public commissioned by the state of Missouri;

(2) Be filed within thirty days of the certification of the election in which the violation is alleged to have occurred and state the following:

(a) The name and mailing address of the person or persons alleged to have committed the violation of Title III of HAVA described in the complaint;

(b) A description of the act or acts that the person filing the complaint believes is a violation of Title III of HAVA; and

(c) The nature of the injury suffered or about to be suffered by the person filing the complaint.

3. The elections division shall promptly provide a copy of the complaint by certified mail to:

(1) All persons identified in the complaint as possible violators of Title III of HAVA; and

(2) The election authority in whose jurisdiction the violation is alleged to have occurred or is about to occur.

4. The elections division may consolidate complaints filed under this section.

5. Upon the proper filing of a complaint under this section, the secretary of state shall appoint a presiding officer who shall conduct an investigation of the complaint.

6. At the request of the person filing the complaint or if the presiding officer believes that the circumstances so dictate, the presiding officer shall conduct a hearing on the complaint and prepare a record on the hearing, such hearing to be conducted within ten days of the request of the person filing the complaint.

7. Upon completion of the investigation, the presiding officer shall submit the results to the elections division, which shall then issue a written report. The elections division shall provide a copy of the report by certified mail to:

(1) The person who filed the complaint;

(2) The person or persons alleged to have committed the violation; and

(3) The election authority in whose jurisdiction the violation is alleged to have occurred.

8. The report described in subsection 7 of this section shall:

(1) Indicate the date when the complaint was received by the elections division;

(2) Contain findings of fact regarding the alleged violation and state whether a violation of Title III of HAVA has occurred;

(3) State what steps, if any, the person or persons alleged to have committed a violation have taken to correct or prevent any recurrence;

(4) Suggest any additional measures that could be taken to correct the violation;

(5) Indicate the date a violation was corrected or is expected to be corrected;

(6) Provide any additional information or recommendations useful in resolving the complaint.

9. If the elections division determines that there is a violation of Title III of HAVA, the elections division shall determine and provide the appropriate remedy, as authorized by law to do so. If the elections division determines that it is not authorized by law to provide an appropriate remedy, the elections division shall, if possible, refer the matter to the appropriate agency or office that has jurisdiction.

115.225. AUTOMATED EQUIPMENT TO BE APPROVED BY SECRETARY OF STATE — STANDARDS TO BE MET — RULES, PROMULGATION, PROCEDURE. — 1. Before use by election authorities in this state, the secretary of state shall approve the marking devices and the automatic tabulating equipment used in electronic voting systems and may promulgate rules and regulations to implement the intent of sections 115.225 to 115.235.

2. No electronic voting system shall be approved unless it:

(1) Permits voting in absolute secrecy;

(2) Permits each voter to vote for as many candidates for each office as a voter is lawfully entitled to vote for;

(3) Permits each voter to vote for or against as many questions as a voter is lawfully entitled to vote on, and no more;

(4) Provides facilities for each voter to cast as many write-in votes for each office as a voter is lawfully entitled to cast;

(5) [Permits each voter at a general election to vote for all candidates of one party by one punch or mark or to vote a split ticket, as a voter desires;

(6)] Permits each voter in a primary election to vote for the candidates of only one party announced by the voter in advance;

[(7)] (6) Permits each voter at a presidential election to vote by use of a single punch or mark for the candidates of one party or group of petitioners for president, vice president and their presidential electors;

[(8)] (7) Accurately counts all proper votes cast for each candidate and for and against each question;

[(9)] (8) Is set to reject all votes, except write-in votes, for any office and on any question when the number of votes exceeds the number a voter is lawfully entitled to cast;

[(10)] (9) Permits each voter, while voting, to clearly see the ballot label;

[(11)] (10) Has been tested and is certified by an independent authority that meets the voting system standards developed by the Federal Election Commission or its successor agency. The provisions of this subdivision shall not be required for any system purchased prior to August 28, 2002.

3. The secretary of state shall promulgate rules and regulations to allow the use of a computerized voting system. The procedures shall provide for the use of a computerized voting system with the ability to provide a paper audit trail. Notwithstanding any provisions of this chapter to the contrary, such a system may allow for the storage of processed ballot materials in an electronic form.

4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

115.237. BALLOTS, CONTENTS OF — FORM OF — STRAIGHT POLITICAL PARTY TICKET VOTING PROHIBITED — RULEMAKING AUTHORITY. — 1. Each ballot printed or designed for use with an electronic voting system for any election pursuant to this chapter shall contain all questions and the names of all offices and candidates certified or filed pursuant to this chapter and no other. As far as practicable, all questions and the names of all offices and candidates for which each voter is entitled to vote shall be printed on one page except for the ballot for political party committee persons in polling places not utilizing an electronic voting system which may be printed separately and in conformity with the requirements contained in this section. As far as practicable, ballots containing only questions and the names of nonpartisan offices and

candidates shall be printed in accordance with the provisions of this section, except that the ballot information may be listed in vertical or horizontal rows. The names of candidates for each office shall be listed in the order in which they are filed.

2. Except as provided in subsection [4] 5 of this section, each ballot shall have:

(1) Each party name printed in capital letters not less than eighteen point in size;

(2) [A circle one-half inch in diameter immediately below each party name;

(3)] The name of each office printed in capital letters not less than eight point in size;

[(4)] (3) The name of each candidate printed in capital letters not less than ten point in size;

[(5)] (4) A small square, the sides of which shall not be less than one-fourth inch in length, printed directly to the left of each candidate's name and on the same line as the candidate's name. When write-in votes are authorized and no candidate's name is to be printed under the name of an office in a party or nonpartisan column, under the name of the office in the column shall be printed a square. Directly to the right of the square shall be printed a horizontal line on which the voter may vote for a person whose name does not appear on the ballot. When more than one position is to be filled for an office, and the number of candidates' names under the office in a column is less than the number of positions to be filled, the number of squares and write-in lines printed in the column shall equal the difference between the number of candidates' names and the number of positions to be filled;

[(6)] (5) The list of candidates of each party and all nonpartisan candidates placed in separate columns with a heavy vertical line between each list;

[(7)] (6) A horizontal line extending across the ballot three-eighths of an inch below the last name or write-in line under each office in such a manner that the names of all candidates and all write-in lines for the same office appear between the same horizontal lines. If write-in votes are not authorized, the horizontal line shall extend across the ballot three-eighths of an inch below the name of the last candidate under each office;

[(8)] (7) In a separate column or beneath a heavy horizontal line under all names and write-in lines, all questions;

[(9)] (8) At least three-eighths of an inch below all other matter on the ballot, printed in ten-point Gothic type, the words "Instructions to Voters" followed by directions to the voter on marking the ballot as provided in section 115.439;

[(10)] (9) Printed at the top on the face of the ballot the words "Official Ballot" followed by the date of the election and the statement "Instruction to Voters: Place an X in the square opposite the name of the person for whom you wish to vote."

3. As nearly as practicable, each ballot shall be in substantially the following form:

OFFICIAL BALLOT

DATE

REPUBLICAN [F For President and Vice President G.....	DEMOCRATIC F For President and Vice President G.....	THIRD PARTY F For President and Vice President G.....	INDEPENDENT F] For President and Vice President G.....
For United States Senator G.....	For United States Senator G.....	For United States Senator G.....	For United States Senator G
For Governor G.....	For Governor G.....	For Governor G.....	For Governor G.....

For Lieutenant Governor G.....	For Lieutenant Governor G.....	For Lieutenant Governor G.....	For Lieutenant Governor G.....
For Secretary of State G.....	For Secretary of State G.....	For Secretary of State G.....	For Secretary of State G.....
For Treasurer G.....	For Treasurer G.....	For Treasurer G.....	For Treasurer G.....
For Attorney General G.....	For Attorney General G.....	For Attorney General G.....	For Attorney General G.....
For United States Representative G.....	For United States Representative G.....	For United States Representative G.....	For United States Representative G.....
For State Senator G.....	For State Senator G.....	For State Senator G.....	For State Senator G.....
For State Representative G.....	For State Representative G.....	For State Representative G.....	For State Representative G.....
For Circuit Judge G.....	For Circuit Judge G.....	For Circuit Judge G.....	For Circuit Judge G.....

4. **No ballot printed or designed for use with an electronic voting system for any partisan election held under this chapter shall allow a person to vote a straight political party ticket. For purposes of this subsection, a "straight political party ticket" means voting for all of the candidates for elective office who are on the ballot representing a single political party by a single selection on the ballot.**

5. The secretary of state shall promulgate rules that specify uniform standards for ballot layout for each electronic or computerized ballot counting system approved under the provisions of section 115.225 so that the ballot used with any counting system is, where possible, consistent with the intent of this section. Nothing in this section shall be construed to require the format specified in this section if it does not meet the requirements of the ballot counting system used by the election authority.

[5.] 6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the

grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

115.247. ELECTION AUTHORITY TO PROVIDE ALL BALLOTS — ERROR IN BALLOT, PROCEDURE TO CORRECT — NUMBER OF BALLOTS PROVIDED — RETURN OF UNUSED BALLOTS — ALL BALLOTS PRINTED AT PUBLIC EXPENSE. — 1. Each election authority shall provide all ballots for every election within its jurisdiction. Ballots other than those printed by the election authority in accordance with sections 115.001 to 115.641 and [sections 51.450 and] **section 51.460, RSMo**, shall not be cast or counted at any election.

2. Whenever it appears that an error has occurred in any publication required by sections 115.001 to 115.641 and [sections 51.450 and] **section 51.460, RSMo**, or in the printing of any ballot, any circuit court may, upon the application of any voter, order the appropriate election authorities to correct the error or to show cause why the error should not be corrected.

3. For each election[,] **held in a county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants**, the election authority [shall] **may** provide for each polling place in its jurisdiction fifty-five ballots for each fifty and fraction of fifty voters registered in the voting district at the time of the election. **For each election, except a general election, held in any county other than a county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants, the election authority shall provide for each polling place in its jurisdiction a number of ballots equal to at least one and one-third times the number of ballots cast in the voting district served by such polling place at the election held two years before at that polling place or at the polling place that served the voting district in the previous election. For each general election held in any county other than a county with a charter form of government and with more than two hundred fifty thousand but fewer than three hundred fifty thousand inhabitants, the election authority shall provide for each polling place in its jurisdiction a number of ballots equal to one and one-third times the number of ballots cast in the voting district served by such polling place or at the polling place that served the voting district in the general election held four years prior. When determining the number of ballots to provide for each polling place, the election authority shall consider any factors that would affect the turnout at such polling place.** The election authority shall keep a record of the exact number of ballots delivered to each polling place. For purposes of this subsection, the election authority shall not be required to count registered voters designated as inactive pursuant to section 115.193.

4. After the polls have closed on every election day, the election judges shall return all unused ballots to the election authority with the other election supplies. [All unused ballots delivered to the election authority may be distributed by the election authority to schools in its jurisdiction. Before distribution, all unused ballots shall be stamped "void" or otherwise altered by the election authority.]

5. All ballots cast in public elections shall be printed and distributed at public expense, payable as provided in sections 115.061 to 115.077.

115.249. STANDARDS REQUIRED OF VOTING MACHINES. — No voting machine shall be used unless it

- (1) Permits voting in absolute secrecy;
- (2) Permits each voter to vote for as many candidates for each office as he is lawfully entitled to vote for, and no other;
- (3) Permits each voter to vote for or against as many questions as he is lawfully entitled to vote on, and no more;
- (4) Provides facilities for each voter to cast as many write-in votes for each office as he is lawfully entitled to cast;

(5) [Permits each voter at a general election to vote for all candidates of one party by use of a single lever or to vote a split ticket, as he desires;

(6) [Permits each voter in a primary election to vote for the candidates of only one party announced by the voter in advance;

[(7)] (6) Permits each voter at a presidential election to vote by use of a single lever for the candidates of one party or group of petitioners for president, vice president and their presidential electors;

[(8)] (7) Correctly registers or records and accurately counts all votes cast for each candidate and for and against each question;

[(9)] (8) Is provided with a lock or locks which prevent any movement of the voting or registering mechanism and any tampering with the mechanism;

[(10)] (9) Is provided with a protective counter or other device whereby any operation of the machine before or after an election will be detected;

[(11)] (10) Is provided with a counter which shows at all times during the election how many people have voted on the machine;

[(12)] (11) Is provided with a proper light which enables each voter, while voting, to clearly see the ballot labels;

[(13)] (12) Is provided with a mechanical model, illustrating the manner of voting on the machine, suitable for the instruction of voters.

115.427. VOTER TO PRESENT FORM OF PERSONAL IDENTIFICATION, ACCEPTABLE IDENTIFICATION — NOTICE OF IDENTIFICATION REQUIREMENTS AND PROCEDURES — AFFIDAVIT, PROVISIONAL BALLOT — FORM — PROVISIONAL BALLOT WHEN IDENTITY NOT VERIFIED, COUNTED WHEN — ADVANCE NOTICE — PAYMENT OF FEE NOT REQUIRED, WHEN, MOBILE PROCESSING SYSTEM — REPORT — VOTER IDENTIFICATION CERTIFICATE — RULEMAKING AUTHORITY — MARK IN LIEU OF SIGNATURE PERMITTED, WHEN — VOTERS WITHOUT IDENTIFICATION, PROVISIONAL BALLOT, PROCEDURES — AFFIDAVIT FORM — EFFECTIVE AND EXPIRATION DATES. — 1. Before receiving a ballot, voters shall [identify themselves] **establish their identity and eligibility to vote at the polling place** by presenting a form of personal identification [from the following list:

(1) Identification issued by the state of Missouri, an agency of the state, or a local election authority of the state;

(2) Identification issued by the United States government or agency thereof;

(3) Identification issued by an institution of higher education, including a university, college, vocational and technical school, located within the state of Missouri;

(4) A copy of a current utility bill, bank statement, government check, paycheck or other government document that contains the name and address of the voter;

(5) Driver's license or state identification card issued by another state; or

(6) Other identification approved by the secretary of state under rules promulgated pursuant to subsection 3 of this section other identification approved by federal law.

Personal knowledge of the voter by two supervising election judges, one from each major political party, shall be acceptable voter identification upon the completion of a secretary of state-approved affidavit that is signed by both supervisory election judges and the voter that attests to the personal knowledge of the voter by the two supervisory election judges. The secretary of state may provide by rule for a sample affidavit to be used for such purpose]. **"Personal identification" shall mean only one of the following:**

(1) **Nonexpired Missouri driver's license showing the name and a photograph or digital image of the individual; or**

(2) **Nonexpired or nonexpiring Missouri nondriver's license showing the name and a photographic or digital image of the individual; or**

(3) **A document that satisfies all of the following requirements:**

(a) The document contains the name of the individual to whom the document was issued, and the name substantially conforms to the most recent signature in the individual's voter registration record;

(b) The document shows a photographic or digital image of the individual;

(c) The document includes an expiration date, and the document is not expired, or if expired, expired not before the date of the most recent general election; and

(d) The document was issued by the United States or the state of Missouri; or

(4) Any identification containing a photographic or digital image of the individual which is issued by the Missouri National Guard, the United States armed forces, or the United States Department of Veteran Affairs to a member or former member of the Missouri National Guard or the United States armed forces and that does not have an expiration date.

2. The election authority shall post a clear and conspicuous notice at each polling place informing each voter who appears at the polling place without a form of personal identification that satisfies the requirements of subsection 1 of this section that the voter may return to the polling place with a proper form of personal identification and vote a regular ballot after election judges have verified the voter's identity and eligibility under subsection 1 of this section. In addition to such posting, the election judges may also inform such voters by written or oral communication, of such information posted in the notice. Voters who return to the polling place during the uniform polling hours established by section 115.407 with a current and valid form of personal identification shall be given priority in any voting lines.

3. An individual who appears at a polling place without identification in the form described in subsection 1 of this section and who is otherwise qualified to vote at that polling place may execute an affidavit averring that the voter is the person listed in the precinct register and that the voter does not possess a form of identification specified in this section and is unable to obtain a current and valid form of personal identification because of:

(1) A physical or mental disability or handicap of the voter, if the voter is otherwise competent to vote under Missouri law; or

(2) A sincerely held religious belief against the forms of personal identification described in subsection 1 of this section; or

(3) The voter being born on or before January 1, 1941.

Upon executing such affidavit, the individual may cast a provisional ballot. Such provisional ballot shall be counted, provided the election authority verifies the identity of the individual by comparing that individual's signature to the signature on file with the election authority and determines that the individual was eligible to cast a ballot at the polling place where the ballot was cast.

4. The affidavit to be used for voting under subsection 3 of this section shall be substantially in the following form:

"State of

County of

I do solemnly swear (or affirm) that my name is; that I reside at; and that I am the person listed in the precinct register under this name and at this address. I further swear (or affirm) that I am unable to obtain a current and valid form of personal identification because of:

[] A physical or mental disability or handicap; or

[] A sincerely held religious belief; or

[] My being born on or before January 1, 1941.

I understand that knowingly providing false information is a violation of law and subjects me to possible criminal prosecution.

.....

Signature of voter

Subscribed and affirmed before me this day of, 20....

.....
Signature of election official"

5. A voter shall be allowed to cast a provisional ballot under section 115.430 even if the election judges cannot establish the voter's identity under subsection 1 of this section. The election judges shall make a notation on the provisional ballot envelope to indicate that the voter's identity was not verified. The provisional ballot cast by such voter shall not be counted unless:

(1) The voter returns to the polling place during the uniform polling hours established by section 115.407 and provides a form of personal identification that allows the election judges to verify the voter's identity as provided in subsection 1 of this section; and

(2) The provisional ballot otherwise qualifies to be counted under section 115.430.

6. The secretary of state shall provide advance notice of the personal identification requirements of subsection 1 of this section in a manner calculated to inform the public generally of the requirement for photographic personal identification as provided in this section. Such advance notice shall include, at a minimum, the use of advertisements and public service announcements in print, broadcast television, radio, and cable television media, as well as the posting of information on the opening pages of the official state Internet web sites of the secretary of state and governor.

7. The provisions of section 136.055, RSMo, and section 302.181, RSMo, notwithstanding, any applicant who requests a nondriver's license with a photograph or digital image for the purpose of voting shall not be required to pay a fee if the applicant executes an affidavit averring that the applicant does not have any other form of photographic personal identification that meets the requirements of subsection 1 of this section. The state of Missouri shall pay the legally required fees for any such applicant. The director shall design an affidavit to be used for this purpose. However, any disabled or elderly person otherwise competent to vote shall be issued a nondriver's license photo identification through a mobile processing system operated by the Missouri department of revenue upon request if the individual is physically unable to otherwise obtain a nondriver's license photo identification. The department of revenue shall make nondriver's license photo identifications available through its mobile processing system only at facilities licensed under chapter 198, RSMo, and other public places accessible to and frequented by disabled and elderly persons. The department shall provide advance notice of the times and places when the mobile processing system will be available. At least nine mobile units housed under the office of administration shall remain available for dispatch upon the request of the department of revenue to fulfill the requirements of this subsection. The total cost associated with nondriver's license photo identification under this subsection shall be borne by the state of Missouri from funds appropriated to the department of revenue for that specific purpose. The department of revenue and a local election authority may enter into a contract that allows the local election authority to assist the department in issuing nondriver's license photo identifications.

8. The director of the department of revenue shall, by January first of each year, prepare and deliver to each member of the general assembly a report documenting the number of individuals who have requested and received a nondriver's license photo identification for the purposes of voting under this section. The report shall also include the number of persons requesting a nondriver's license for purposes of voting under this section, but not receiving such license, and the reason for the denial of the nondriver's license.

9. The precinct register shall serve as the voter identification certificate. The following form shall be printed at the top of each page of the precinct register:

VOTER'S IDENTIFICATION CERTIFICATE

Warning: It is against the law for anyone to vote, or attempt to vote, without having a lawful right to vote.

PRECINCT

WARD OR TOWNSHIP

GENERAL (SPECIAL, PRIMARY) ELECTION

Held, 20....

Date

I hereby certify that I am qualified to vote at this election by signing my name and verifying my address by signing my initials next to my address.

[3.] **10.** The secretary of state shall promulgate rules to effectuate the provisions of this section.

[4.] **11.** Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

[5.] **12.** If any voter is unable to sign his name at the appropriate place on the certificate or computer printout, an election judge shall print the name and address of the voter in the appropriate place on the precinct register, the voter shall make his mark in lieu of signature, and the voter's mark shall be witnessed by the signature of an election judge.

13. For any election held on or before November 1, 2008, an individual who appears at a polling place without identification in the form described in subsection 1 of this section, and who is otherwise qualified to vote at that polling place, may cast a provisional ballot after:

(1) Executing an affidavit which is also signed by two supervising election judges, one from each major political party, who attest that they have personal knowledge of the identity of the voter, provided that the two supervising election judges who sign an affidavit under this subdivision shall not be involved or participate in the verification of the voter's eligibility by the election authority after the provisional ballot is cast; or

(2) (a) Executing an affidavit affirming his or her identity; and

(b) Presenting a form of identification from the following list:

a. Identification issued by the state of Missouri, an agency of the state, or a local election authority of the state;

b. Identification issued by the United States government or agency thereof;

c. Identification issued by an institution of higher education, including a university, college, vocational and technical school, located within the state of Missouri;

d. A copy of a current utility bill, bank statement, government check, paycheck, or other government document that contains the name and address of the voter; or

e. Driver's license or state identification card issued by another state.

Such provisional ballot shall be entitled to be counted, provided the election authority verifies the identity of the individual by comparing that individual's signature to the current signature on file with the election authority and determines that the individual was otherwise eligible to cast a ballot at the polling place where the ballot was cast.

14. The affidavit to be used for voting under subsection 13 of this section shall be substantially in the following form:

"State of

County of

I do solemnly swear (or affirm) that my name is; that I reside at; and that I am the person listed in the precinct register under this name and at this address.

I understand that knowingly providing false information is a violation of law and subjects me to possible criminal prosecution.

.....

Signature of voter

Subscribed and affirmed before me this day of, 20....

.....

Signature of Election Official".

15. The provisions of subsections 1 to 5 and 8 to 14 of this section shall become effective August 28, 2006, and this subsection shall expire September 1, 2006.

115.430. PROVISIONAL BALLOTS, USED WHEN, EXCEPTIONS, PROCEDURE, COUNTED WHEN, HOW — RULEMAKING AUTHORITY — FREE ACCESS SYSTEM ESTABLISHED — PROVISIONAL BALLOT ONLY USED, WHEN— NO JURISDICTION IN STATE COURTS TO EXTEND POLLING HOURS. — 1. This section shall apply to primary and general elections where candidates for federal or statewide offices are nominated or elected and any election where statewide issue or issues are submitted to the voters.

2. (1) A voter claiming to be properly registered in the jurisdiction of the election authority and eligible to vote in an election, but whose eligibility **at that precinct** cannot be immediately established upon examination of the precinct register [or upon examination of the records on file with the election authority], shall be entitled to vote a provisional ballot after providing a form of personal identification required pursuant to section 115.427 **or upon executing an affidavit under section 115.427**, or may vote at a central polling place as established in section 115.115 where [they] **the voter** may vote [their] **his or her** appropriate ballot **for his or her precinct of residence** upon verification of eligibility or vote a provisional ballot if eligibility cannot be determined. The provisional ballot [contained in] **provided to a voter under** this section shall [contain the statewide candidates and issues, and federal candidates. The congressional district on the provisional ballot shall be for the address contained on] **be the ballot provided to a resident of the voter's precinct determined by reference to** the affidavit provided for in this section. If the voter declares that the voter is eligible to vote and the election authority determines that the voter is eligible to vote at another polling place, the voter shall be directed to the correct polling place or a central polling place as established by the election authority pursuant to subsection 5 of section 115.115. If the voter refuses to go to the correct polling place or a central polling place, the voter shall be permitted to vote a provisional ballot at the incorrect polling place, but such ballot shall not be counted **if the voter was not eligible to vote at that polling place.**

(2) The following steps shall be taken to establish a voter's eligibility to vote at a polling place:

(a) The election judge shall examine the precinct register as provided in section 115.425. If the voter is registered and eligible to vote at the polling place, the voter shall receive a regular ballot;

(b) If the voter's eligibility cannot be immediately established by examining the precinct register, the election judge shall contact the election authority. If the election authority cannot immediately establish that the voter is registered and eligible to vote at the polling place upon examination of the Missouri voter registration system, or if the election judge is unable to make contact with the election authority immediately, the voter shall be notified that the voter is entitled to a provisional ballot.

(3) The voter shall have the duty to appear and vote at the correct polling place. If an election judge determines that the voter is not eligible to vote at the polling place at

which a voter presents himself or herself, and if the voter appears to be eligible to vote at another polling place, the voter shall be informed that he or she may cast a provisional ballot at the current polling place or may travel to the correct polling place or a central polling place, as established by the election authority under subsection 5 of section 115.115, where the voter may cast a regular ballot or provisional ballot if the voter's eligibility still cannot be determined. Provisional ballots cast at a polling place shall be counted only if the voter was eligible to vote at such polling place as provided in subsection 5 of this section.

(4) For a voter requesting an absentee ballot in person, such voter shall be entitled to cast a provisional ballot when the voter's eligibility cannot be immediately established upon examination of the precinct registers or the Missouri voter registration system.

(5) Prior to accepting any provisional ballot at the polling place, the election judges shall determine that the information provided on the provisional ballot envelope by the provisional voter is consistent with the identification provided by such person under section 115.427.

3. (1) No person shall be entitled to receive a provisional ballot until such person has completed a provisional ballot affidavit on the provisional ballot envelope.

(2) The secretary of state shall produce appropriate sizes of provisional ballot envelopes and distribute them to each election authority according to their tabulating system. All provisional ballot envelopes shall be printed on a distinguishable color of paper that is different from the color of the regular ballot. The provisional ballot envelope shall be in the form required by subsection 4 of this section. All provisional ballots shall be marked with a conspicuous stamp or other distinguishing mark that makes them readily distinguishable from the regular ballots.

[3.] (3) Once voted, the provisional ballot shall be placed and sealed in a provisional ballot envelope.

4. The provisional ballot in its envelope shall be deposited in the ballot box. The provisional ballot envelope shall be completed by the voter for use in determining eligibility. The provisional ballot envelope specified in this section shall contain a voter's certificate which shall be in substantially the following form:

STATE OF

COUNTY OF

I do solemnly swear (or affirm) that my name is; that my date of birth is; that the last four digits of my Social Security Number are; that I am registered to vote in County or City (if a City not within a County), Missouri; that I am a qualified voter of said County (or City not within a County); that I am eligible to vote at this polling place; and that I have not voted in this election.

I understand that if the above-provided information is not correct and the election authority determines that I am not registered and eligible to vote, my vote will not be counted. I further understand that knowingly providing false information is a violation of law and subjects me to possible criminal prosecution.

.....

(Signature of Voter)

.....

(Current Address)

Subscribed and affirmed before me this day of, 20.....

.....

(Signature of Election Official)

The voter may provide additional information to further assist the election authority in determining eligibility, including the place and date the voter registered to vote, if known.

[4.] 5. (1) Prior to [certification of the election] counting any provisional ballot, the election authority shall determine if the voter is registered and [entitled] eligible to vote and if the vote was properly cast. The eligibility of provisional votes shall be determined according to the requirements for a voter to cast a ballot in the election as set forth in sections 115.133 and 115.135. A provisional voter ballot shall not be eligible to be counted until the election authority has determined that:

(a) The voter cast such provisional ballot at a polling place established for the voter or the central polling place established by the election authority under subsection 5 of section 115.115;

(b) The individual who cast the provisional ballot is an individual registered to vote in the respective election at the polling place where the ballot was cast;

(c) The voter did not otherwise vote in the same election by regular ballot, absentee ballot, or otherwise; and

(d) The information on the provisional ballot envelope is found to be correct, complete, and accurate.

(2) When the ballot boxes are delivered to the election authority from the polling places, the receiving teams shall separate the provisional ballots from the rest of the ballots and place the sealed provisional ballot envelopes in a separate container. Teams of election authority employees or teams of election judges with each team consisting of one member of each major political party shall photocopy each provisional ballot envelope, such photocopy to be used by the election authority to determine provisional voter eligibility. The sealed provisional ballot envelopes shall be placed by the team in a sealed container and shall remain therein until tabulation.

(3) To determine whether a provisional ballot is valid and entitled to be counted, the election authority shall examine its records and verify that the provisional voter is properly registered and eligible to vote in the election. If the provisional voter has provided information regarding the registration agency where the provisional voter registered to vote, the election authority shall make an inquiry of the registration agency to determine whether the provisional voter is properly registered and eligible to vote in the election.

(4) If the election authority determines that the provisional voter is registered and eligible to vote in the election, the election authority shall provide documentation verifying the voter's eligibility. Such documentation shall be noted on the copy of the provisional ballot envelope and shall contain substantially the following information:

(a) The name of the provisional voter;

(b) The name of the reviewer;

(c) The date and time; and

(d) A description of evidence found that supports the voter's eligibility.

(5) The local election authority shall record on a provisional ballot acceptance/rejection list the provisional ballot identification number and a notation marking it as accepted.

(6) If the election authority determines that the provisional voter is not registered or eligible to vote in the election, the election authority shall provide documentation verifying the voter's ineligibility. Such documentation shall be noted on the copy of the provisional ballot envelope and shall contain substantially the following information:

(a) The name of the provisional voter;

(b) The name of the reviewer;

(c) The date and time;

(d) A description of why the voter is ineligible.

(7) The local election authority shall record on a provisional ballot acceptance/rejection list the provisional ballot identification number and notation marking it as rejected.

(8) If rejected, a photocopy of the envelope shall be made and used by the election authority as a mail-in voter registration. The actual provisional ballot envelope shall be kept as ballot material, and the copy of the envelope shall be used by the election authority for registration record keeping.

6. All provisional ballots cast by voters whose eligibility has been verified as provided in this section shall be counted in accordance with the rules governing ballot tabulation. Provisional ballots shall not be counted until all provisional ballots are determined either eligible or ineligible and all provisional ballots must be processed before the election is certified. The provisional ballot shall be counted only if the election authority determines that the voter is registered and [entitled] **eligible** to vote. Provisional ballots voted in the wrong polling place shall not be counted. If the voter is not registered but is qualified to register for future elections, the affidavit shall be considered a [mail] **mail-in** application to register to vote pursuant to this chapter.

7. (1) After the election authority completes its review of the provisional voter's eligibility under subsection 5 of this section, the election authority shall deliver the provisional ballots and copies of the provisional ballot envelopes that include eligibility information to bipartisan counting teams, which may be the board of verification, for review and tabulation. The election authority shall maintain a record of such delivery. The record shall include the number of ballots delivered to each team and shall include a signed receipt from two judges, one from each major political party. The election authority shall provide each team with a ballot box and material necessary for tabulation.

(2) If the person named on the provisional ballot affidavit is found to have been properly qualified and registered to cast a ballot in the election and the provisional ballot otherwise qualifies to be counted under the provisions of this section, the envelope shall be opened, and the ballot shall be placed in a ballot box to be counted.

(3) If the person named on the provisional ballot affidavit is found not to have been properly qualified and registered to cast a ballot in the election or if the election authority is unable to determine such person's right to vote, the envelope containing the provisional ballot shall not be opened, and the person's vote shall not be counted. The members of the team shall follow the procedures set forth in subsection 5 of this section for rejected provisional ballots.

(4) The votes shall be tallied and the returns made as provided in sections 115.447 to 115.525 for paper ballots. After the vote on all ballots assigned to a team have been counted, the ballots, ballot envelopes, and copies of ballot envelopes with the eligibility information provided by the election authority shall be enclosed in sealed containers marked "Voted provisional ballots and ballot envelopes from the election held, 20...". All rejected provisional ballots, ballot envelopes, and copies of ballot envelopes with the eligibility information provided by the election authority shall be enclosed in sealed containers marked "Rejected provisional ballots and ballot envelopes from the election held, 20...". On the outside of each voted ballot and rejected ballot container, each member of the team shall write their name and all such containers shall be returned to the election authority. Upon receipt of the returns and ballots, the election authority shall tabulate the provisional votes.

8. Challengers and watchers, as provided by sections 115.105 and 115.107, may be present during all times that the bipartisan counting teams are reviewing or counting the provisional ballots, the provisional ballot envelopes, or copies of the provisional ballot envelopes that include eligibility information provided by the election authority. Challengers and watchers shall be permitted to observe the determination of the eligibility of all provisional ballots. The election authority shall notify the county chair of each major political party of the time and location when bipartisan counting teams will be reviewing or counting the provisional ballots, the provisional ballot envelopes, or the copies of the provisional ballot envelopes that include the eligibility information provided by the election authority.

9. The certificate of ballot cards shall:

- (1) Reflect the number of provisional envelopes delivered; and**
- (2) Reflect the number of sealed provisional envelopes with voted ballots deposited in the ballot box.**

[5.] **10.** In counties where the voting system does not utilize a paper ballot, the election authority shall provide the appropriate provisional ballots to each polling place.

[6.] **11.** The secretary of state may promulgate rules for purposes of ensuring the uniform application of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

[7.] **12.** The secretary of state shall design and provide to the election authorities the envelopes and forms necessary to carry out the provisions of this section.

[8.] **13.** Pursuant to the Help America Vote Act of 2002, the secretary of state shall ensure a free access system is established, such as a toll-free number or an Internet web site, that any individual who casts a provisional ballot may access to discover whether the vote of that individual was counted, and, if the vote was not counted, the reason that the vote was not counted. At the time an individual casts a provisional ballot, the election authority shall give the voter written information that states that any individual who casts a provisional ballot will be able to ascertain under such free access system whether the vote was counted, and if the vote was not counted, the reason that the vote was not counted.

[9.] **14.** In accordance with the Help America Vote Act of 2002, any individual who votes in an election as a result of a court order or any other order extending the time established for closing the polls in section 115.407 may vote only by using a provisional ballot, and such provisional ballot shall be separated and held apart from other provisional ballots cast by those not affected by the order. Such ballots shall not be counted until such time as the ballots are determined to be valid. **No state court shall have jurisdiction to extend the polling hours established by law, including section 115.407.**

115.431. IDENTIFICATION CERTIFICATES TO BE INITIALED BY JUDGES AND PRESERVED AS POLL LISTS. — [1. In counties using binders as the precinct register, upon satisfactory identification of the voter, two judges of different political parties shall initial the voter's identification certificate. All identification certificates shall be numbered consecutively by an election judge in the order received, starting with the number "1". The signed identification certificates shall constitute the poll list and shall be securely fastened together in the order received.

2. In counties using computer printouts for precinct registers,] Upon satisfactory identification of the voter, two judges of different political parties shall place their initials on the line where the voter signed the [printout] **precinct register**. All voters' names on the [printout] **precinct register** shall be numbered consecutively in the order in which they have signed, starting with the number "1". The computer [printout] **precinct register** shall then constitute the poll list.

115.439. PROCEDURE FOR VOTING PAPER BALLOT — RULEMAKING AUTHORITY. — 1. If paper ballots or ballot cards are used, the voter shall, immediately upon receiving his ballot, go alone to a voting booth and vote his ballot in the following manner:

(1) [If the voter desires to vote a straight party ticket, he may place a cross (X) mark in the circle directly below the party name at the head of the column, or he may place cross (X) marks in the squares directly to the left of the names of candidates on one party ticket;

(2) If the voter desires to vote a split party ticket, he may place a cross (X) mark in the circle directly below one party name at the head of the column and cross (X) marks in the squares directly to the left of the names of candidates on other party tickets, or he may place cross (X) marks in the squares directly to the left of the names of candidates on different party

tickets] **When a voter desires to vote for a candidate, the voter shall place a cross (X) mark in the square directly to the left of the name of the candidate for which the voter intends to vote;**

[(3)] (2) If the voter desires to vote for a person whose name does not appear on the ballot, [he] **the voter** may cross out a name which appears on the ballot for the office and write the name of the person for whom he wishes to vote above or below the crossed-out name and place a cross (X) mark in the square directly to the left of the crossed-out name. If a write-in line appears on the ballot, [he] **the voter** may write the name of the person for whom he **or she** wishes to vote on the line and place a cross (X) mark in the square directly to the left of the name;

[(4)] If the ballot does not contain any party designations, the voter shall place a cross (X) mark in the squares directly to the left of the names of the candidates for whom he desires to vote;

[(5)] (3) If the ballot is one which contains no candidates, the voter shall place a cross (X) mark in the square directly to the left of each "yes" or "no" he desires to vote.

No voter shall vote for the same person more than once for the same office at the same election.

2. For purposes of this section, a punch or sensor mark or any other mark clearly indicating that the voter intends to mark that particular square shall be equivalent to a cross (X) mark.

3. If voting machines are used, the voter shall, immediately upon direction by the judges, go alone to a voting machine, close the curtain and vote in substantially the same manner provided in subsection 1 of this section. Rather than placing cross (X) marks on the ballot, however, the voter shall cause the designations to appear on the face of the voting machine, cast any write-in votes and register his votes as directed in the instructions for use of the machine.

4. If the voter accidentally spoils his ballot or ballot card or makes an error, he may return it to an election judge and receive another. The election judge shall mark "SPOILED" across the ballot or ballot card and place it in an envelope marked "SPOILED BALLOTS". After another ballot has been prepared in the manner provided in section 115.433, the ballot shall be given to the voter for voting.

5. The election authority may authorize the use of a sticker or other item containing a write-in candidate's name, in lieu of a handwritten name. All such stickers and items used by election authorities shall conform to rules and regulations promulgated by the secretary of state regarding the form of such stickers and items. The secretary of state shall promulgate rules and regulations to prescribe uniform specifications for the form of such stickers and items. If authorized, such sticker or item shall contain a cross (X) mark, or other mark as described in subsection 2 of this section, in the square directly left of the candidate's name and the office for which the candidate is a write-in candidate. A write-in vote that does not meet the requirements of this subsection which appears on a ballot shall not be counted pursuant to sections 115.447 to 115.525. In those jurisdictions using an electronic voting system which utilizes mark sense or optical scan technology and if the election authority authorizes the use of stickers for write-ins, such system shall be programmed to identify and separate those ballots which contain an office in which write-in candidates are eligible to receive votes, and which contain less votes than a voter is entitled to cast. In addition, such sticker shall be considered "printed matter" as defined in subsection 8 of section 130.031, RSMo, and as such shall contain the designation required by subsection 8 of section 130.031, RSMo.

6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the

grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

115.445. NO ONE BUT VOTER IN BOOTH, EXCEPTION. — 1. Except as provided in subsections 2 and 3 of this section, no one other than the voter shall be permitted in any voting booth or permitted to be in any position where he may see how a voter is voting.

2. If any voter, after entering a voting booth, asks for further instructions concerning the manner of voting, two election judges of different political parties shall give such instructions. Such judges shall not enter the voting booth unless it is impossible to give the instructions otherwise. After giving the instructions, the judges shall leave the area and take all necessary measures to insure that the voter casts his vote in secret.

3. If any voter declares under oath to the election judges that he cannot read or write, is blind or has any other physical disability and cannot vote his ballot, he may be assisted by the election judges or by any person of his own choice other than a judge. If the voter asks for the assistance of election judges, two judges of different political parties shall go to the voting booth and cast his vote as he directs. If the voter asks for the assistance of someone other than election judges, the assistant shall go to the voting booth with the voter and cast his vote as he directs. No person, other than election judges and members of such voters' immediate families, shall assist more than one voter at one election.

4. A child under the age of eighteen shall be allowed to accompany his or her parent, grandparent, or guardian into a voting booth.

115.449. BALLOTS, WHEN AND HOW COUNTED. — 1. As soon as the polls close in each polling place using paper ballots, the election judges shall begin to count the votes. If earlier counting is begun pursuant to section 115.451, the election judges shall complete the count in the manner provided by this section. Once begun, no count shall be adjourned or postponed until all proper votes have been counted.

2. One counting judge, closely observed by the other counting judge, shall take the ballots out of the ballot box one at a time and, holding each ballot in such a way that the other counting judge may read it, shall read the name of each candidate properly voted for and the office sought by each. As each vote is called out, the recording judges shall each record the vote on a tally sheet. The votes for and against all questions shall likewise be read and recorded. [In a general election, the counting judges may separate the straight party ballots from the split party ballots and first read one and then the other.] If more than one political subdivision or special district is holding an election on the same day at the same polling place and using separate ballots, the counting judges may separate the ballots of each political subdivision and special district and first read one set, then the next and so on until all proper votes have been counted.

3. After all of the proper votes on a ballot have been counted, the ballot shall be strung on a wire or string in the order read. After all the ballots have been read and strung and after the recording judges agree on the count, the wire or string shall be tied in a firm knot, and the knot shall be sealed so that it cannot be untied without breaking the seal. Rejected and spoiled ballots shall not be strung but shall be placed in separate containers marked "REJECTED" and "SPOILED".

4. After the recording of all proper votes, the recording judges shall compare their tallies. When the recording judges agree on the count, they shall sign both of the tally sheets, and one of the recording judges shall announce in a loud voice the total number of votes for each candidate and for and against each question.

5. After the announcement of the vote, the election judges shall record the vote totals in the appropriate places on each statement of returns. If any tally sheet or statement of returns contains no heading for any question, the election judges shall write the necessary headings on the tally sheet or statement of returns.

115.453. PROCEDURE FOR COUNTING VOTES FOR CANDIDATES. — Election judges shall count votes for all candidates in the following manner:

(1) [If a cross (X) mark appears in the circle immediately below a party name at the head of a column, each candidate of the party shall be counted as voted for. If a cross (X) mark appears in the circle immediately below more than one party name,] No candidate shall be counted as voted for, except a candidate before whose name a cross (X) mark appears in the square preceding the name and a cross (X) mark does not appear in the square preceding the name of any candidate for the same office in another column. [If a cross (X) mark appears in the circle immediately below a party name at the head of a column, and a cross (X) mark appears in the square next to the name of any candidate in another column, each candidate of the party whose circle is marked shall be counted as voted for, except where a cross (X) mark appears in the square preceding the name of any candidate in another column.] Except as provided in this subdivision and subdivision (2) of this section, each candidate with a cross (X) mark in the square preceding his or her name shall be counted as voted for.

(2) [If no cross (X) mark appears in the circle immediately below any party name, but a cross (X) mark does appear in the square next to any candidate's name, the name of each candidate next to which a cross (X) mark appears shall be counted as voted for, and no other name shall be counted as voted for.] If cross (X) marks appear next to the names of more candidates for an office than are entitled to fill the office, no candidate for the office shall be counted as voted for. If more than one candidate is to be nominated or elected to an office, and any voter has voted for the same candidate more than once for the same office at the same election, no votes cast by the voter for the candidate shall be counted.

(3) No vote shall be counted for any candidate that is not marked substantially in accordance with the provisions of this section. The judges shall count votes marked substantially in accordance with this section **and section 115.456** when the intent of the voter seems clear. Regulations promulgated by the secretary of state shall be used by the judges to determine voter intent. No ballot containing any proper votes shall be rejected for containing fewer marks than are authorized by law.

(4) Write-in votes shall be counted only for candidates for election to office who have filed a declaration of intent to be a write-in candidate for election to office with the proper election authority, who shall then notify the proper filing officer of the write-in candidate prior to 5:00 p.m. on the second Friday immediately preceding the election day; except that, write-in votes shall be counted only for candidates for election to state or federal office who have filed a declaration of intent to be a write-in candidate for election to state or federal office with the secretary of state pursuant to section 115.353 prior to 5:00 p.m. on the second Friday immediately preceding the election day. No person who filed as a party or independent candidate for nomination or election to an office may, without withdrawing as provided by law, file as a write-in candidate for election to the same office for the same term. No candidate who files for nomination to an office and is not nominated at a primary election may file a declaration of intent to be a write-in candidate for the same office at the general election. When declarations are properly filed with the secretary of state, the secretary of state shall promptly transmit copies of all such declarations to the proper election authorities for further action pursuant to this section. The election authority shall furnish a list to the election judges and counting teams prior to election day of all write-in candidates who have filed such declaration. This subdivision shall not apply to elections wherein candidates are being elected to an office for which no candidate has filed.

(5) Write-in votes shall be cast and counted for a candidate without party designation. Write-in votes for a person cast with a party designation shall not be counted. Except for candidates for political party committees, no candidate shall be elected as a write-in candidate unless such candidate receives a separate plurality of the votes without party designation regardless of whether or not the total write-in votes for such candidate under all party and without party designations totals a majority of the votes cast.

(6) When submitted to the election authority, each declaration of intent to be a write-in candidate for the office of United States president shall include the name of a candidate for vice president and the name of nominees for presidential elector equal to the number to which the state is entitled. At least one qualified resident of each congressional district shall be nominated as presidential elector. Each such declaration of intent to be a write-in candidate shall be accompanied by a declaration of candidacy for each presidential elector in substantially the form set forth in subsection 3 of section 115.399. Each declaration of candidacy for the office of presidential elector shall be subscribed and sworn to by the candidate before the election official receiving the declaration of intent to be a write-in, notary public or other officer authorized by law to administer oaths.

115.456. RESPONSIBILITIES OF ELECTION AUTHORITY, COUNTING PUNCH CARD BALLOTS — COUNTING OPTICAL SCAN BALLOTS — COUNTING PAPER BALLOTS — WRITE-IN STICKERS — MARKS INDICATING POLITICAL PARTY PREFERENCE, HOW CONSTRUED. — 1. The election authority shall be responsible for ensuring that the standards provided for in this subsection are followed when counting ballots cast using punch card voting systems.

(1) Prior to tabulating ballots, all ballot cards shall be inspected by the election authority for hanging chad and damaged ballots. Inspection of ballot cards shall be conducted using the following guidelines:

(a) The election authority shall appoint a bipartisan team to inspect all ballots where a question exists about the condition of a ballot or existence of a hanging chad;

(b) All ballot card inspections conducted under this section shall be conducted by examining the ballot card from the back of the card;

(c) If a ballot is determined to be damaged, the bipartisan team shall spoil the original ballot and duplicate the voter's intent on the new ballot, provided that there is an undisputed method of matching the duplicate card with its original after it has been placed with the remainder of the ballot cards from the precinct; and

(d) If a chad is determined to be hanging by two or less corners, it shall be removed prior to being tabulated.

(2) In jurisdictions using punch card systems, a valid vote for a write-in candidate shall include the following:

(a) A distinguishing mark in the square immediately preceding the name of the candidate;

(b) The name of the candidate. If the name of the candidate as written by the voter is substantially as declared by the candidate it shall be counted, or in those circumstances where the names of candidates are similar, the names of candidates as shown on voter registration records shall be counted; and

(c) The name of the office for which the candidate is to be elected.

(3) Whenever a hand recount of votes is ordered of punch card ballots, the provisions of this subsection shall be used to determine voter intent.

2. The election authority shall be responsible for ensuring that the standards provided for in this subsection are followed when counting ballots cast using optical scan voting systems.

(1) Prior to tabulating ballots, all machines shall be programmed to reject blank ballots where no votes are recorded or where an overvote is registered in any race.

(2) In jurisdictions using precinct-based tabulators, the voter who cast the ballot shall review the ballot if rejected, if the voter wishes to make any changes to the ballot, or if the voter would like to spoil the ballot and receive another ballot.

(3) In jurisdictions using centrally based tabulators, if a ballot is so rejected it shall be reviewed by a bipartisan team using the following criteria:

(a) If a ballot is determined to be damaged, the bipartisan team shall spoil the original ballot and duplicate the voter's intent on the new ballot, provided that there is an

undisputed method of matching the duplicate card with its original after it has been placed with the remainder of the ballot cards from such precinct; and

(b) Voter intent shall be determined using the following criteria:

a. There is a distinguishing mark in the printed oval or divided arrow adjacent to the name of the candidate or issue preference;

b. There is a distinguishing mark adjacent to the name of the candidate or issue preference; or

c. The name of the candidate or issue preference is circled.

(4) In jurisdictions using optical scan systems, a valid vote for a write-in candidate shall include the following:

(a) A distinguishing mark in the designated location preceding the name of the candidate;

(b) The name of the candidate. If the name of the candidate as written by the voter is substantially as declared by the candidate it shall be counted, or in those circumstances where the names of candidates are similar, the names of candidates as shown on voter registration records shall be counted; and

(c) The name of the office for which the candidate is to be elected.

(5) Whenever a hand recount of votes of optical scan ballots is ordered, the provisions of this subsection shall be used to determine voter intent.

3. The election authority shall be responsible for ensuring that the standards provided for in this subsection are followed when counting ballots cast using paper ballots.

(1) Voter intent shall be determined using the following criteria:

(a) There is a distinguishing mark in the square adjacent to the name of the candidate or issue preference;

(b) There is a distinguishing mark adjacent to the name of the candidate or issue preference; or

(c) The name of the candidate or issue preference is circled.

(2) In jurisdictions using paper ballots, a valid vote for a write-in candidate shall include the following:

(a) A distinguishing mark in the square immediately preceding the name of the candidate;

(b) The name of the candidate. If the name of the candidate as written by the voter is substantially as declared by the candidate it shall be counted, or in those circumstances where the names of candidates are similar, the names of candidates as shown on voter registration records shall be counted; and

(c) The name of the office for which the candidate is to be elected.

(3) Whenever a hand recount of votes of paper ballots is ordered, the provisions of this subsection shall be used to determine voter intent.

4. When write-in stickers are used, the sticker shall contain the name of a candidate, the office sought, and a distinguishing mark in the square immediately preceding the name of the candidate and shall be approximately one inch by three inches in size with black print on a white background. The sticker shall be placed by the voter on the write-in line designating the office sought or the sticker shall be placed by the voter on the write-in line on the secrecy envelope.

5. Notwithstanding any other provision of law, a distinguishing mark indicating a general preference for or against the candidates of one political party shall not be considered a vote for or against any specific candidate.

115.631. CLASS ONE ELECTION OFFENSES. — The following offenses, and any others specifically so described by law, shall be class one election offenses and are deemed felonies connected with the exercise of the right of suffrage. Conviction for any of these offenses shall be punished by imprisonment of not more than five years or by fine of not less than two

thousand five hundred dollars but not more than ten thousand dollars or by both such imprisonment and fine:

(1) Willfully and falsely making any certificate, affidavit, or statement required to be made pursuant to any provision of sections 115.001 to 115.641 and sections 51.450 and 51.460, RSMo, including but not limited to statements specifically required to be made "under penalty of perjury"; or in any other manner knowingly furnishing false information to an election authority or election official engaged in any lawful duty or action in such a way as to hinder or mislead the authority or official in the performance of official duties. If an individual willfully and falsely makes any certificate, affidavit, or statement required to be made under section 115.155, including but not limited to statements specifically required to be made "under penalty of perjury", such individual shall be guilty of a class C felony;

(2) Voting more than once or voting at any election knowing that the person is not entitled to vote or that the person has already voted on the same day at another location inside or outside the state of Missouri;

(3) Procuring any person to vote knowing the person is not lawfully entitled to vote or knowingly procuring an illegal vote to be cast at any election;

(4) Applying for a ballot in the name of any other person, whether the name be that of a person living or dead or of a fictitious person, or applying for a ballot in his own or any other name after having once voted at the election inside or outside the state of Missouri;

(5) Aiding, abetting or advising another person to vote knowing the person is not legally entitled to vote or knowingly aiding, abetting or advising another person to cast an illegal vote;

(6) An election judge knowingly causing or permitting any ballot to be in the ballot box at the opening of the polls and before the voting commences;

(7) Knowingly furnishing any voter with a false or fraudulent or bogus ballot, or knowingly practicing any fraud upon a voter to induce him to cast a vote which will be rejected, or otherwise defrauding him of his vote;

(8) An election judge knowingly placing or attempting to place or permitting any ballot, or paper having the semblance of a ballot, to be placed in a ballot box at any election unless the ballot is offered by a qualified voter as provided by law;

(9) Knowingly placing or attempting to place or causing to be placed any false or fraudulent or bogus ballot in a ballot box at any election;

(10) Knowingly removing any legal ballot from a ballot box for the purpose of changing the true and lawful count of any election or in any other manner knowingly changing the true and lawful count of any election;

(11) Knowingly altering, defacing, damaging, destroying or concealing any ballot after it has been voted for the purpose of changing the lawful count of any election;

(12) Knowingly altering, defacing, damaging, destroying or concealing any poll list, report, affidavit, return or certificate for the purpose of changing the lawful count of any election;

(13) On the part of any person authorized to receive, tally or count a poll list, tally sheet or election return, receiving, tallying or counting a poll list, tally sheet or election return the person knows is fraudulent, forged or counterfeit, or knowingly making an incorrect account of any election;

(14) On the part of any person whose duty it is to grant certificates of election, or in any manner declare the result of an election, granting a certificate to a person the person knows is not entitled to receive the certificate, or declaring any election result the person knows is based upon fraudulent, fictitious or illegal votes or returns;

(15) Willfully destroying or damaging any official ballots, whether marked or unmarked, after the ballots have been prepared for use at an election and during the time they are required by law to be preserved in the custody of the election judges or the election authority;

(16) Willfully tampering with, disarranging, altering the information on, defacing, impairing or destroying any voting machine or marking device after the machine or marking device has been prepared for use at an election and during the time it is required by law to

remain locked and sealed with intent to impair the functioning of the machine or marking device at an election, mislead any voter at the election, or to destroy or change the count or record of votes on such machine;

(17) Registering to vote knowing the person is not legally entitled to register or registering in the name of another person, whether the name be that of a person living or dead or of a fictitious person;

(18) Procuring any other person to register knowing the person is not legally entitled to register, or aiding, abetting or advising another person to register knowing the person is not legally entitled to register;

(19) Knowingly preparing, altering or substituting any computer program or other counting equipment to give an untrue or unlawful result of an election;

(20) On the part of any person assisting a blind or disabled person to vote, knowingly failing to cast such person's vote as such person directs;

(21) On the part of any registration or election official, permitting any person to register to vote or to vote when such official knows the person is not legally entitled to register or not legally entitled to vote;

(22) On the part of a notary public acting in his official capacity, knowingly violating any of the provisions of sections 115.001 to 115.627 or any provision of law pertaining to elections;

(23) Violation of any of the provisions of sections 115.275 to 115.303, or of any provision of law pertaining to absentee voting;

(24) Assisting a person to vote knowing such person is not legally entitled to such assistance, or while assisting a person to vote who is legally entitled to such assistance, in any manner coercing, requesting or suggesting that the voter vote for or against, or refrain from voting on any question, ticket or candidate;

(25) **Engaging in any act of violence, destruction of property having a value of five hundred dollars or more, or threatening an act of violence with the intent of denying a person's lawful right to vote or to participate in the election process; and**

(26) **Knowingly providing false information about election procedures for the purpose of preventing any person from going to the polls.**

[115.126. ADVANCE VOTING PERIOD PRIOR TO GENERAL ELECTIONS IN PRESIDENTIAL ELECTION YEARS — ELECTION AUTHORITIES TO ESTABLISH PLAN TO IMPLEMENT, REQUIREMENTS — RULEMAKING AUTHORITY. — 1. Notwithstanding any provision of this chapter to the contrary, election authorities shall establish a plan to implement an advance voting period when eligible registered voters may vote before any general election in presidential election years at the office of the election authority and up to four other polling places designated by and under the control of the election authority. Such plan shall provide that the permissible advance voting period shall begin fourteen days prior to such election and end at 5:00 p.m. on the Wednesday before the day of such election.

2. Election authorities shall, pursuant to subsection 1 of this section, establish in their plans the hours and locations for advance voting. The election authority shall have all advance voting locations open on all business days during the advance voting period, and may have all advance voting locations open on Saturdays, Sundays and holidays during the advance voting period.

3. Except as provided in this section, advance voting procedures shall be conducted pursuant to sections 115.407 to 115.445. The secretary of state shall design the necessary application for use in an advance voting program pursuant to this section. All election authorities in this state shall submit to the secretary of state a plan to implement the advance voting period by December 31, 2002. The secretary of state shall assist election authorities in developing a plan for the implementation of an advance voting program.

4. The plans established pursuant to this section shall also require that before the precinct registers are delivered to the polling places for an election, the election authority shall record in

the precinct registers the names of all voters who have submitted an advance voting ballot. The election judge shall not allow any person who has voted an advance voting ballot in the election to vote at the polls on election day. If it is determined that any voter submitted an advance voting ballot and voted at the polls on election day, such person, having voted more than once, is guilty of a class one election offense pursuant to subdivision (2) of section 115.631.

5. The secretary of state may promulgate rules to effectuate the provisions of this section.

6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.]

[115.223. APPEAL OF REMOVAL BY VOTER, PROCEDURE. — Whenever a voter's name has been removed from the registration records by an election authority, the voter may appeal the removal to the circuit court. Unless prohibited by court rule, the petition may be filed in an associate circuit court division. No formal pleading shall be required, and it shall be sufficient for the voter to present to the court an application verified by affidavit setting forth that his name has been removed from the registration records, the date of such removal, and any other information showing his qualification to vote. The application shall first be presented to the election authority, which shall either restore the voter's name to the registration records or furnish a statement showing the reason the voter's name was removed from the records. The court shall hear and dispose of such application forthwith. Evidence may be introduced for and against the application. If the court sustains the application, the court shall notify the election authority of its action, and the election authority shall restore the applicant's name to the registration records and note that it was restored by order of the court. No person whose name is restored to the registration records by order of the court shall be protected by such order if he is challenged or prosecuted for false registration or false voting. If a voter's name is restored to the registration records by the election authority or by order of the court on election day, the voter shall be permitted to vote in the office of the election authority.]

SECTION B. EMERGENCY CLAUSE. — Because of the need to provide the citizens of this state adequate time to transition into the voter identification provisions required by section A of this act, the repeal and reenactment of section 115.427 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the repeal and reenactment of section 115.427 of section A of this act shall be in full force and effect upon its passage and approval.

Approved June 14, 2006

SB 1016 [SB 1016]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires county commissions to set tax rates by September 20th

AN ACT to repeal section 137.390, RSMo, and to enact in lieu thereof one new section relating to determination of tax rates for county commissions, with an emergency clause.

SECTION

- A. Enacting clause.
- 137.390. County commission to determine tax rate.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 137.390, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 137.390, to read as follows:

137.390. COUNTY COMMISSION TO DETERMINE TAX RATE. — After the assessor's book shall be corrected and adjusted according to law, but not later than [August tenth] **September twentieth** of each year, the county commission shall ascertain the sum necessary to be raised for county purposes, and fix the rate of taxes on the several subjects of taxation so as to raise the required sum, and the same shall be entered in proper columns in the tax book.

SECTION B. EMERGENCY CLAUSE. — Because of the need to ensure the accurate determination of tax rates by county commissions, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Approved June 9, 2006

SB 1017 [CCS HCS SB 1017]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Makes the State Milk Board the official rating agency for the enforcement of standards relating to milk production

AN ACT to repeal sections 30.750, 196.931, 196.949, and 196.951, RSMo, and to enact in lieu thereof six new sections relating to agricultural programs.

SECTION

- A. Enacting clause.
- 30.750. Definitions.
- 196.931. Definitions.
- 196.949. State inspection of milk or milk products not required, when.
- 196.951. State milk board official rating agency — survey made, when, how.
- 348.500. Family farms act — definitions — loan program for livestock, qualifications — rulemaking authority.
- 348.505. Tax credit for family farm livestock loan program, procedure.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 30.750, 196.931, 196.949, and 196.951, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 30.750, 196.931, 196.949, 196.951, 348.500, and 348.505, to read as follows:

30.750. DEFINITIONS. — As used in sections 30.750 to 30.767, the following terms mean:

(1) "Eligible agribusiness", a person engaged in the processing or adding of value to agricultural products produced in Missouri;

(2) "Eligible beginning farmer",

(a) For any beginning farmer who seeks to participate in the linked deposit program alone, a farmer who:

a. Is a Missouri resident;

b. Wishes to borrow for a farm operation located in Missouri;

c. Is at least eighteen years old; and

d. In the preceding five years has not owned, either directly or indirectly, farm land greater than fifty percent of the average size farm in the county where the proposed farm operation is located or farm land with an appraised value greater than four hundred fifty thousand dollars.

A farmer who qualifies as an eligible farmer under this provision may utilize the proceeds of a linked deposit loan to purchase agricultural land, farm buildings, new and used farm equipment, livestock and working capital;

(b) For any beginning farmer who is participating in both the linked deposit program and the beginning farmer loan program administered by the Missouri agriculture and small business development authority, a farmer who:

a. Qualifies under the definition of a beginning farmer utilized for eligibility for federal tax-exempt financing, including the limitations on the use of loan proceeds; and

b. Meets all other requirements established by the Missouri agriculture and small business development authority;

(3) "Eligible facility borrower", a borrower qualified under section 30.860 to apply for a reduced-rate loan under sections 30.750 to 30.767;

(4) "Eligible farming operation", any person engaged in farming in an authorized farm corporation, family farm, or family farm corporation as defined in section 350.010, RSMo, that has all of the following characteristics:

(a) Is headquartered in this state;

(b) Maintains offices, operating facilities, or farming operations and transacts business in this state;

(c) Employs less than ten employees;

(d) Is organized for profit;

(e) Possesses not more than sixty percent equity, where "percent equity" is defined as total assets minus total liabilities divided by total assets, except that an otherwise eligible farming operation applying for a loan for the purpose of installing or improving a waste management practice in order to comply with environmental protection regulations shall be exempt from this eligibility requirement;

(5) "Eligible higher education institution", any approved public or private institution as defined in section 173.205, RSMo;

(6) "Eligible job enhancement business", a new, existing, or expanding firm operating in Missouri, **or as a condition of accepting the linked deposit, will locate a facility or office in Missouri associated with said linked deposit**, which employs ten or more employees **in Missouri** on a yearly average and which, as nearly as possible, is able to establish or retain at least one job in Missouri for each [twenty-five] **fifty** thousand dollars received from a linked deposit loan;

(7) "Eligible lending institution", a financial institution that is eligible to make commercial or agricultural or student loans or discount or purchase such loans, is a public depository of state funds or obtains its funds through the issuance of obligations, either directly or through a related entity, eligible for the placement of state funds under the provisions of section 15, article IV, Constitution of Missouri, and agrees to participate in the linked deposit program;

(8) "Eligible livestock operation", any person engaged in production of livestock or poultry in an authorized farm corporation, family farm, or family farm corporation as defined in section 350.010, RSMo;

(9) "Eligible marketing enterprise", a business enterprise operating in this state which is in the process of marketing its goods, products or services within or outside of this state or overseas, which marketing is designed to increase manufacturing, transportation, mining, communications, or other enterprises in this state, which has proposed its marketing plan and strategy to the department of economic development and which plan and strategy has been approved by the department for purposes of eligibility pursuant to sections 30.750 to 30.767. Such business enterprise shall conform to the characteristics of paragraphs (a), (b) and (d) of subdivision (4) of this section and also employ less than twenty-five employees;

(10) "Eligible multitenant development enterprise", a new enterprise that develops multitenant space for targeted industries as determined by the department of economic development and approved by the department for the purposes of eligibility pursuant to sections 30.750 to 30.767;

(11) "Eligible residential property developer", an individual who purchases and develops a residential structure of either two or four units, if such residential property developer uses and agrees to continue to use, for at least the five years immediately following the date of issuance of the linked deposit loan, one of the units as his principal residence or if such person's principal residence is located within one-half mile from the developed structure and such person agrees to maintain the principal residence within one-half mile of the developed structure for at least the five years immediately following the date of issuance of the linked deposit loan;

(12) "Eligible residential property owner", a person, firm or corporation who purchases, develops or rehabilitates a multifamily residential structure;

(13) "Eligible small business", a person engaged in an activity with the purpose of obtaining, directly or indirectly, a gain, benefit or advantage and which conforms to the characteristics of paragraphs (a), (b) and (d) of subdivision (4) of this section, and also employs less than twenty-five employees;

(14) "Eligible student borrower", any person attending, or the parent of a dependent undergraduate attending, an eligible higher education institution in Missouri who may or may not qualify for need-based student financial aid calculated by the federal analysis called Congressional Methodology Formula pursuant to 20 U.S.C. 1078, as amended (the Higher Education Amendments of 1986);

(15) "Eligible water supply system", a water system which serves fewer than fifty thousand persons and which is owned and operated by:

- (a) A public water supply district established pursuant to chapter 247, RSMo; or
- (b) A municipality or other political subdivision; or
- (c) A water corporation;

and which is certified by the department of natural resources in accordance with its rules and regulations to have suffered a significant decrease in its capacity to meet its service needs as a result of drought;

(16) "Farming", using or cultivating land for the production of agricultural crops, livestock or livestock products, forest products, poultry or poultry products, milk or dairy products, or fruit or other horticultural products;

(17) "Linked deposit", a certificate of deposit, or in the case of production credit associations, the subscription or purchase outright of obligations described in section 15, article IV, Constitution of Missouri, placed by the state treasurer with an eligible lending institution at rates otherwise provided by law in section 30.758, provided the institution agrees to lend the value of such deposit, according to the deposit agreement provided in sections 30.750 to 30.767, to eligible small businesses, farming operations, eligible job enhancement businesses, eligible marketing enterprises, eligible residential property developers, eligible residential property owners, eligible agribusinesses, eligible beginning farmers, eligible livestock operations, eligible

student borrowers, eligible facility borrowers, or eligible water supply systems at below the present borrowing rate applicable to each small business, farming operation, eligible job enhancement business, eligible marketing enterprise, eligible residential property developer, eligible residential property owner, eligible agribusiness, eligible beginning farmer, eligible livestock operation, eligible student borrower, or supply system at the time of the deposit of state funds in the institution;

(18) "Market rate", the interest rate tied to federal government securities and more specifically described in subsection 4 of section 30.260;

(19) "Water corporation", as such term is defined in section 386.020, RSMo;

(20) "Water system", as such term is defined in section 386.020, RSMo.

196.931. DEFINITIONS. — As used in sections 196.931 to 196.953 unless the context clearly indicates otherwise, the following words and terms shall have the meaning indicated:

(1) "Grade A pasteurized milk", grade A raw milk for pasteurization which has been pasteurized, cooled, and placed in the final container in a milk plant and conforming with the sanitation and bacteriological standards authorized by sections 196.931 to 196.953 and regulations promulgated thereunder;

(2) "Grade A raw milk for pasteurization", raw milk for pasteurization from producer dairies and conforming with all of the sanitation and bacteriological standards authorized by sections 196.931 to 196.953 and regulations which are promulgated thereunder;

(3) "Graded fluid milk and fluid milk products", milk products include cream, light cream, coffee cream, table cream, whipping cream, light whipping cream, heavy cream, heavy whipping cream, whipped cream, whipped light cream, whipped coffee cream, whipped table cream, sour cream, cultured sour cream, half-and-half, sour half-and-half, cultured half-and-half, reconstituted or recombined milk and milk products, concentrated milk, concentrated milk products, skim milk, skimmed milk, lowfat milk, fortified milk and milk products, vitamin D milk and milk products, homogenized milk, flavored milk or milk products, eggnog, eggnog flavored milk, eggnog flavored lowfat milk, buttermilk, cultured buttermilk, cultured milk, cultured whole milk buttermilk, and acidified milk and milk products, and other fluid milk and fluid milk products so declared by the board which are sold, offered for sale, exposed for sale, delivered or advertised as graded milk and milk products;

(4) "Manufacturing raw milk", milk that does not meet the requirements of grade A raw milk for pasteurization as defined in sections 196.931 to 196.959;

(5) "Milk plant", any place, premises or establishment where graded fluid milk or fluid milk products are collected, handled, processed, stored, bottled, pasteurized and prepared for distribution, except an establishment where graded fluid milk products are sold at retail as purchased from a milk plant;

(6) "Milk plant operator", any person, firm, corporation or association operating any milk plant;

(7) "Milk producer", any person who operates a dairy farm and provides, sells, or offers milk for sale to a milk plant, receiving station, or transfer station;

(8) "Official rating agency", the state [department of health and senior services] **milk board**;

(9) "Official rating survey", the survey conducted by the official state rating agency, as required by sections 196.931 to 196.953;

(10) "Person" shall mean an individual or individuals, or a firm, partnership, company, corporation, trustee, or association;

(11) "Political subdivision", any municipality, city, incorporated town, village, county, township, district or authority, or any portion or combination of two or more thereof;

(12) "State department of agriculture", the department of agriculture of Missouri;

(13) "State department of health and senior services", the department of health and senior services of Missouri;

(14) "State milk board", an appointed state agency functioning as administrator of "state milk inspection"; and

(15) "State milk inspection", the services of inspection, regulation, grading, and program evaluation of fluid milk and fluid milk products by agents, representatives or employees of the state milk board under the terms and provisions of sections 196.931 to 196.959 and regulations adopted to regulate the production, transportation, processing, manufacture, distribution and sale of graded fluid milk and fluid milk products.

196.949. STATE INSPECTION OF MILK OR MILK PRODUCTS NOT REQUIRED, WHEN. — Graded fluid milk or fluid milk products not inspected under state milk inspection may be sold, offered for sale, exposed for sale, and delivered in the state of Missouri, or any municipality thereof, if approved [jointly] by the [director of the department of agriculture and the director of the department of health and senior services] **state milk board** as provided for by regulations adopted [jointly] by the [two agencies and the] state milk board; provided that, the graded fluid milk or fluid milk products from other states shall be produced and processed under the supervision of a duly authorized governmental agency operating under the provisions of an ordinance, statute, or regulation substantially equivalent to the regulations promulgated and adopted by the state milk board and enforced with equal effectiveness as determined by an official rating survey, and products meet applicable temperature, bacteriological and composition standards when sampled on arrival at point of retail sale. Nothing in this section shall prohibit the state or local health officer from satisfying himself **or herself** that the governmental agency having jurisdiction over the production and processing is properly enforcing such provisions.

196.951. STATE MILK BOARD OFFICIAL RATING AGENCY — SURVEY MADE, WHEN, HOW. — The [department of health and senior services] **state milk board** is hereby designated as the official rating agency. At least [annually] **biannually**, or as often as necessary, the [department of health and senior services] **state milk board** shall make an official rating survey to determine if there is appropriate and effective enforcement of the standards and provisions of sections 196.931 through 196.953 and such other surveys as may be necessary to assure enforcement of sections 196.931 through 196.953 throughout the state. Unsatisfactory conditions shall be deemed to exist when a rating below the minimum acceptable rating established by the [director of the department of agriculture and the director of the department of health and senior services] **state milk board** is found by the official rating survey. Violation of sections 196.931 through 196.953 shall be deemed to exist when the unsatisfactory conditions causing the rating to fall below the minimum acceptable rating are not corrected within ninety days. The minimum acceptable rating shall be ninety percent for the pasteurized milk supply as determined by rating methods recognized by the United States Public Health Service Food and Drug Administration. The [director of the department of agriculture and the director of the department of health and senior services] **state milk board** shall [jointly] promulgate and adopt a single method of making official rating surveys of all milksheds. Official surveys shall be made by a method substantially equivalent to procedures outlined in United States Governmental Printing Office Publication Number 678, titled "Methods of Making Sanitation Ratings of Milksheds".

348.500. FAMILY FARMS ACT — DEFINITIONS — LOAN PROGRAM FOR LIVESTOCK, QUALIFICATIONS — RULEMAKING AUTHORITY. — **1. This section shall be known and may be cited as the "Family Farms Act".**

2. As used in this section, "small farmer" means a farmer who is a Missouri resident and who has less than two hundred fifty thousand dollars in gross sales per year.

3. The agricultural and small business development authority shall establish a family farm breeding livestock loan program for small farmers for the purchase of beef cattle, dairy cattle, sheep and goats, and swine only.

4. To participate in the loan program, a small farmer shall first obtain approval for a family farm livestock loan from a lender as defined in section 348.015. Each small farmer shall be eligible for only one family farm livestock loan per family and for only one type of livestock.

5. The maximum amount of the family farm livestock loan for each type of livestock shall be as follows:

- (1) Seventy-five thousand dollars for beef cattle;
- (2) Seventy-five thousand dollars for dairy cattle;
- (3) Thirty-five thousand dollars for swine; and
- (4) Thirty thousand dollars for sheep and goats.

6. Eligible borrowers under the program:

- (1) Shall use the proceeds of the family farm loan to acquire breeding livestock;
- (2) Shall not finance more than ninety percent of the anticipated cost of the purchase of such livestock through the family farm livestock loan; and
- (3) Shall not be charged interest by the lender, as defined in section 348.015, for the first year of the qualified family farm livestock loan.

7. Upon approval of the family farm livestock loan by a lender under subsection 4 of this section, the loan shall be submitted for approval by the agriculture and small business development authority. The authority shall promulgate rules establishing eligibility under this section, taking into consideration:

- (1) The eligible borrower's ability to repay the family farm livestock loan;
- (2) The general economic conditions of the area in which the farm is located;
- (3) The prospect of a financial return for the small farmer for the type of livestock for which the family farm livestock loan is sought; and
- (4) Such other factors as the authority may establish.

8. For eligible borrowers participating in the program, the authority shall be responsible for reviewing the purchase price of any livestock to be purchased by an eligible borrower under the program to determine whether the price to be paid is appropriate for the type of livestock purchased. The authority may impose a one-time loan review fee of one percent which shall be collected by the lender at the time of the loan and paid to the authority.

9. Nothing in this section shall preclude a small farmer from participating in any other agricultural program.

10. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

348.505. TAX CREDIT FOR FAMILY FARM LIVESTOCK LOAN PROGRAM, PROCEDURE. —

1. As used in this section, "state tax liability", any state tax liability incurred by a taxpayer under the provisions of chapters 143, 147, and 148, RSMo, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265, RSMo, and related provisions.

2. Any eligible lender under the family farm livestock loan program under section 348.500 shall be entitled to receive a tax credit equal to one hundred percent of the amount of interest waived by the lender under section 348.500 on a qualifying loan for the first year of the loan only. The tax credit shall be evidenced by a tax credit certificate issued by the agriculture and small business development authority and may be used to satisfy

the state tax liability of the owner of such certificate that becomes due in the tax year in which the interest on a qualified loan is waived by the lender under section 348.500. No lender may receive a tax credit under this section unless such person presents a tax credit certificate to the department of revenue for payment of such state tax liability. The amount of the tax credits that may be issued to all eligible lenders claiming tax credits authorized in this section in a fiscal year shall not exceed one hundred fifty thousand dollars.

3. The agriculture and small business development authority shall be responsible for the administration and issuance of the certificate of tax credits authorized by this section. The authority shall issue a certificate of tax credit at the request of any lender. Each request shall include a true copy of the loan documents, the name of the lender who is to receive a certificate of tax credit, the type of state tax liability against which the tax credit is to be used, and the amount of the certificate of tax credit to be issued to the lender based on the interest waived by the lender under section 348.500 on the loan for the first year.

4. The Missouri department of revenue shall accept a certificate of tax credit in lieu of other payment in such amount as is equal to the lesser of the amount of the tax or the remaining unused amount of the credit as indicated on the certificate of tax credit, and shall indicate on the certificate of tax credit the amount of tax thereby paid and the date of such payment.

5. The following provisions shall apply to tax credits authorized under this section:

(1) Tax credits claimed in a taxable year may be claimed on a quarterly basis and applied to the estimated quarterly tax of the lender;

(2) Any amount of tax credit which exceeds the tax due, including any estimated quarterly taxes paid by the lender under subdivision (1) of this subsection which results in an overpayment of taxes for a taxable year, shall not be refunded but may be carried over to any subsequent taxable year, not to exceed a total of three years for which a tax credit may be taken for a qualified family farm livestock loan;

(3) Notwithstanding any provision of law to the contrary, a lender may assign, transfer or sell tax credits authorized under this section, with the new owner of the tax credit receiving the same rights in the tax credit as the lender. For any tax credits assigned, transferred, sold, or otherwise conveyed, a notarized endorsement shall be filed by the lender with the authority specifying the name and address of the new owner of the tax credit and the value of such tax credit; and

(4) Notwithstanding any other provision of this section to the contrary, any commercial bank may use tax credits created under this section as provided in section 148.064, RSMo, and receive a net tax credit against taxes actually paid in the amount of the first year's interest on loans made under this section. If such first year tax credits reduce taxes due as provided in section 148.064, RSMo, to zero, the remaining tax credits may be carried over as otherwise provided in this section and utilized as provided in section 148.064, RSMo, in subsequent years.

Approved June 29, 2006

SB 1020 [SB 1020]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires anyone who manufactures, installs, or repairs fuel storage tanks or piping for such tanks to maintain evidence of financial responsibility to cover the costs of corrective action after a fuel release

AN ACT to amend chapter 414, RSMo, by adding thereto one new section relating to requirements for installers and manufacturers of fuel storage tanks.

SECTION

A. Enacting clause.

414.035. Financial responsibility for fuel tank storage and piping — exceptions — rulemaking authority.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 414, RSMo, is amended by adding thereto one new section, to be known as section 414.035, to read as follows:

414.035. FINANCIAL RESPONSIBILITY FOR FUEL TANK STORAGE AND PIPING — EXCEPTIONS — RULEMAKING AUTHORITY. — **1.** Any person who manufactures an aboveground or underground fuel storage tank for use in this state, or piping for such tank, or who installs or repairs such tanks or piping in this state, shall maintain evidence of financial responsibility in an amount equal to or greater than one million dollars per occurrence and two million dollars annual aggregate for the costs of corrective action directly related to releases caused by improper manufacture, installation, or repair of such tank or piping.

2. The requirement set forth in subsection 1 of this section shall not apply to the installation or repairs of fuel tanks or piping by the owner or operator of such fuel tank or piping.

3. Evidence of financial responsibility shall be presented annually to the director of the department of agriculture.

4. The department of agriculture shall promulgate rules to implement the provisions of this section.

5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

Approved June 29, 2006

SB 1023 [HCS SB 1023]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows persons wrongfully found guilty of a felony, who are later exonerated by DNA profiling analysis, to receive restitution

AN ACT to repeal sections 488.5050, 650.050, 650.055, 650.056, 650.057, and 650.100, RSMo, and to enact in lieu thereof seven new sections relating to exoneration using DNA testing, with penalty provisions.

SECTION

- A. Enacting clause.
- 488.5050. Surcharges on all criminal cases, amount — deposit in general revenue fund or DNA profiling analysis fund, when — expiration date.
- 650.050. DNA profiling system to be established in department of public safety, purpose.
- 650.055. Felony convictions for certain offenses to have biological samples collected, when — use of sample — highway patrol and department of corrections, duty — DNA records and biological materials to be closed record, disclosure, when — expungement of record, when.
- 650.056. Evidence capable of being tested for DNA must be preserved.
- 650.057. Local law enforcement agencies not to operate system, exceptions — rules authorized — DNA evidence in court use by local law enforcers.
- 650.058. Individuals who are actually innocent may receive restitution, amount, petition, definition, limitations and requirements — guilt confirmed by DNA testing, procedures — petitions for restitution — order of expungement.
- 650.100. Definitions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 488.5050, 650.050, 650.055, 650.056, 650.057, and 650.100, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 488.5050, 650.050, 650.055, 650.056, 650.057, 650.058, and 650.100, to read as follows:

488.5050. SURCHARGES ON ALL CRIMINAL CASES, AMOUNT — DEPOSIT IN GENERAL REVENUE FUND OR DNA PROFILING ANALYSIS FUND, WHEN — EXPIRATION DATE. — 1. In addition to any other surcharges authorized by statute, the clerk of each court of this state shall collect the surcharges provided for in subsection 2 of this section.

2. A surcharge of thirty dollars shall be assessed as costs in each circuit court proceeding filed within this state in all criminal cases in which the defendant pleads guilty or nolo contendere to or is convicted of a felony, **except when the defendant pleads guilty or is found guilty of a class B felony, class A felony, or an unclassified felony, under chapter 195, RSMo, in which case, the surcharge shall be sixty dollars.** A surcharge of fifteen dollars shall be assessed as costs in each court proceeding filed within this state in all criminal cases, except for traffic violations cases in which the defendant pleads guilty or nolo contendere to or is convicted of a misdemeanor.

3. Notwithstanding any other provisions of law, the moneys collected by clerks of the courts pursuant to the provisions of subsection 1 of this section shall be collected and disbursed in accordance with sections 488.010 to 488.020, and shall be payable to the state treasurer.

4. If in the immediate previous fiscal year, the state's general revenue did not increase by two percent or more, the state treasurer shall deposit such moneys or other gifts, grants, or moneys received on a monthly basis into the state general revenue fund. Otherwise the state treasurer shall deposit such moneys in accordance with the provisions of subsection 5 of this section.

[4.] **5.** The state treasurer shall deposit such moneys or other gifts, grants, or moneys received on a monthly basis into the "DNA Profiling Analysis Fund", which is hereby created in the state treasury. The fund shall be administered by the department of public safety. The

moneys deposited into the DNA profiling analysis fund shall be used only for DNA profiling analysis of convicted offender samples performed to fulfill the purposes of the DNA profiling system pursuant to section 650.052, RSMo. **Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.**

[5.] **6.** The provisions of subsections 1 and 2 of this section shall expire on August 28, [2006] **2013.**

650.050. DNA PROFILING SYSTEM TO BE ESTABLISHED IN DEPARTMENT OF PUBLIC SAFETY, PURPOSE. — 1. The Missouri department of public safety shall develop and establish a "DNA Profiling System", referred to in sections 650.050 to 650.100 as the system to assist federal, state, and local criminal justice and law enforcement agencies in the identification, investigation, and prosecution of individuals as well as the identification of missing or unidentified persons.

2. This DNA profiling system shall consist of qualified Missouri forensic laboratories approved by the Federal Bureau of Investigation.

3. The Missouri state highway patrol crime laboratory shall be the administrator of the state's DNA index system.

[2.] **4.** The DNA profiling system as established in this section shall be compatible with that used by the Federal Bureau of Investigation to ensure that DNA records are fully exchangeable between DNA laboratories and that quality assurance standards issued by the director of the Federal Bureau of Investigation are applied and performed.

650.055. FELONY CONVICTIONS FOR CERTAIN OFFENSES TO HAVE BIOLOGICAL SAMPLES COLLECTED, WHEN — USE OF SAMPLE — HIGHWAY PATROL AND DEPARTMENT OF CORRECTIONS, DUTY — DNA RECORDS AND BIOLOGICAL MATERIALS TO BE CLOSED RECORD, DISCLOSURE, WHEN — EXPUNGEMENT OF RECORD, WHEN. — 1. Every individual, **in a Missouri circuit court, who pleads guilty to or [nolo contendere to or is convicted in a Missouri circuit court,] is found guilty** of a felony or any offense under chapter 566, RSMo, or has been determined beyond a reasonable doubt to be a sexually violent predator pursuant to sections 632.480 to 632.513, RSMo, shall have a blood or scientifically accepted biological sample collected for purposes of DNA profiling analysis:

(1) Upon entering or before release from the department of corrections reception and diagnostic centers; or

(2) Upon entering or before release from a county jail or detention facility, state correctional facility, or any other detention facility or institution, whether operated by private, local, or state agency, or any mental health facility if committed as a sexually violent predator pursuant to sections 632.480 to 632.513, RSMo; or

(3) When the state accepts a person from another state under any interstate compact, or under any other reciprocal agreement with any county, state, or federal agency, or any other provision of law, whether or not the person is confined or released, the acceptance is conditional on the person providing a DNA sample if the person was convicted of, pleaded guilty to, or pleaded nolo contendere to an offense in any other jurisdiction which would be considered a qualifying offense as defined in this section if committed in this state, or if the person was convicted of, pleaded guilty to, or pleaded nolo contendere to any equivalent offense in any other jurisdiction; or

(4) If such individual is under the jurisdiction of the department of corrections. Such jurisdiction includes persons currently incarcerated, persons on probation, as defined in section 217.650, RSMo, and on parole, as also defined in section 217.650, RSMo.

2. The Missouri state highway patrol and department of corrections shall be responsible for ensuring adherence to the law. Any person required to provide a DNA sample pursuant to this section shall be required to provide such sample, without the right of refusal, at a collection

site designated by the Missouri state highway patrol and the department of corrections. Authorized personnel collecting or assisting in the collection of samples shall not be liable in any civil or criminal action when the act is performed in a reasonable manner. Such force may be used as necessary to the effectual carrying out and application of such processes and operations. The enforcement of these provisions by the authorities in charge of state correctional institutions and others having custody or jurisdiction over those who have been convicted of, pleaded guilty to, or pleaded nolo contendere to felony offenses which shall not be set aside or reversed is hereby made mandatory. The board of probation or parole shall recommend that an individual who refuses to provide a DNA sample have his or her probation or parole revoked. In the event that a person's DNA sample is not adequate for any reason, the person shall provide another sample for analysis.

3. The procedure and rules for the collection, analysis, storage, expungement, use of DNA database records and privacy concerns shall not conflict with procedures and rules applicable to the Missouri DNA profiling system and the Federal Bureau of Investigation's DNA data bank system.

4. Unauthorized uses or dissemination of individually identifiable DNA information in a database for purposes other than criminal justice or law enforcement is a class A misdemeanor.

5. Implementation of sections 650.050 to 650.100 shall be subject to future appropriations to keep Missouri's DNA system compatible with the Federal Bureau of Investigation's DNA data bank system.

6. All DNA records and biological materials retained in the DNA profiling system are considered closed records pursuant to chapter 610, RSMo. All records containing any information held or maintained by any person or by any agency, department, or political subdivision of the state concerning an individual's DNA profile shall be strictly confidential and shall not be disclosed, except to:

(1) Peace officers, as defined in section 590.010, RSMo, and other employees of law enforcement agencies who need to obtain such records to perform their public duties;

(2) The attorney general or any assistant attorneys general acting on his or her behalf, as defined in chapter 27, RSMo;

(3) Prosecuting attorneys or circuit attorneys as defined in chapter 56, RSMo, and their employees who need to obtain such records to perform their public duties; or

(4) Associate circuit judges, circuit judges, judges of the courts of appeals, supreme court judges, and their employees who need to obtain such records to perform their public duties.

7. Any person who obtains records pursuant to the provisions of this section shall use such records only for investigative and prosecutorial purposes, including but not limited to use at any criminal trial, hearing, or proceeding; or for law enforcement identification purposes, including identification of human remains. Such records shall be considered strictly confidential and shall only be released as authorized by this section.

8. An individual may request expungement of his or her DNA sample and DNA profile through the court issuing the reversal or dismissal. A certified copy of the court order establishing that such conviction has been reversed or guilty plea or plea of nolo contendere has been set aside shall be sent to the Missouri state highway patrol crime laboratory. Upon receipt of the court order, the laboratory will determine that the requesting individual has no other qualifying offense as a result of any separate plea or conviction prior to expungement.

(1) A person whose DNA record or DNA profile has been included in the state DNA database in accordance with this section, section 488.5050, RSMo, and sections 650.050, 650.052, and 650.100 may request expungement on the grounds that the conviction has been reversed, or the guilty plea or plea of nolo contendere on which the authority for including that person's DNA record or DNA profile was based has been set aside.

(2) Upon receipt of a written request for expungement, a certified copy of the final court order reversing the conviction or setting aside the plea and any other information necessary to ascertain the validity of the request, the Missouri state highway patrol crime laboratory shall

expunge all DNA records and identifiable information in the database pertaining to the person and destroy the DNA sample of the person, unless the Missouri state highway patrol determines that the person is otherwise obligated to submit a DNA sample. Within thirty days after the receipt of the court order, the Missouri state highway patrol shall notify the individual that it has expunged his or her DNA sample and DNA profile, or the basis for its determination that the person is otherwise obligated to submit a DNA sample.

(3) The Missouri state highway patrol is not required to destroy any item of physical evidence obtained from a DNA sample if evidence relating to another person would thereby be destroyed.

(4) Any identification, warrant, arrest, or evidentiary use of a DNA match derived from the database shall not be excluded or suppressed from evidence, nor shall any conviction be invalidated or reversed or plea set aside due to the failure to expunge or a delay in expunging DNA records.

[9. Notwithstanding the sovereign immunity of the state, an individual who is determined to be "actually innocent" of a crime may be paid restitution in accordance with this subsection. The individual may receive an amount of fifty dollars per day for each day of postconviction incarceration for the crime for which the individual is determined to be actually innocent. The petition for the payment of said restitution shall be filed with the sentencing court within one year of the release from confinement after August 28, 2003. For the purposes of this subsection the term "actually innocent" shall mean:

(1) The individual was convicted of a felony for which a final order of release was entered by the court;

(2) All appeals of the order of release have been exhausted;

(3) The individual was not serving any term of a sentence for any other crime concurrently with the sentence for which they are determined to be actually innocent; and

(4) Testing ordered pursuant to section 547.035, RSMo, demonstrates a person's innocence of the crime for which the person is in custody. An individual who receives restitution pursuant to this subsection shall be prohibited from seeking any civil redress from the state, its departments and agencies, or any employee thereof, or any political subdivision or its employees. This subsection shall not be construed as a waiver of sovereign immunity for any purposes other than the restitution provided for herein. All restitution paid pursuant to this subsection shall be paid from moneys in the DNA profiling analysis fund. The department shall determine the aggregate amount of restitution owed during a fiscal year. If moneys remain in the fund on June thirtieth of each fiscal year, the remaining moneys shall be used to pay restitution to those individuals who have received an order awarding restitution under this subsection during the past fiscal year. If insufficient moneys remain in the fund on June thirtieth of each fiscal year to pay restitution to such persons, the department shall pay each individual who has received an order awarding restitution a pro rata share of the amount such person is owed. The remaining amounts owed to such individual shall be paid from the fund on June thirtieth of each subsequent fiscal year, provided moneys remain in the fund on June thirtieth, until such time as the restitution to the individual has been paid in full. However, no individual awarded restitution under this subsection shall receive more than thirty-six thousand five hundred dollars during each fiscal year. No interest on unpaid restitution shall be awarded to the individual. If there are no moneys remaining in the DNA profiling analysis fund, then no payments shall be made under this subsection. No individual who has been determined by the court to be actually innocent shall be responsible for the costs of care under section 217.831, RSMo.

10. If the results of the DNA testing confirm the person's guilt, then the person filing for DNA testing under section 547.035, RSMo, shall:

(1) Be liable for any reasonable costs incurred when conducting the DNA test, including but not limited to the cost of the test. Such costs shall be determined by the court and shall be included in the findings of fact and conclusions of law made by the court; and

- (2) Be sanctioned under the provisions of section 217.262, RSMo.]

650.056. EVIDENCE CAPABLE OF BEING TESTED FOR DNA MUST BE PRESERVED. — Any evidence leading to a conviction of a felony described in subsection 1 of section 650.055 which has been or can be tested for DNA shall be preserved by the [Missouri state highway patrol] **investigating law enforcement agency.**

650.057. LOCAL LAW ENFORCEMENT AGENCIES NOT TO OPERATE SYSTEM, EXCEPTIONS — RULES AUTHORIZED — DNA EVIDENCE IN COURT USE BY LOCAL LAW ENFORCERS. — 1. Except as provided in subsection 3 of this section, no local law enforcement agency may establish or operate a system [before January 15, 1992, and] unless:

(1) The equipment of the local system is compatible with that of the state system; and
(2) The local system is equipped to receive and answer inquiries from the Missouri DNA profiling system or FBI databank and transmit data to the Missouri DNA profiling system and FBI databank; and

(3) The procedure and rules for the collection, analysis, storage, expungement and use of DNA profiling data do not conflict with procedures and rules applicable to the Missouri system and the FBI DNA databank.

2. The Missouri department of public safety shall adopt rules to implement this section.

3. Nothing in subdivisions (1) and (2) of this section shall prohibit a local law enforcement agency from performing DNA profiling analysis in individual cases to assist law enforcement officials and prosecutors in the preparation and use of DNA evidence for presentation in court. Implementation of sections 650.050 to 650.057 shall be subject to future appropriations except for section 650.050.

650.058. INDIVIDUALS WHO ARE ACTUALLY INNOCENT MAY RECEIVE RESTITUTION, AMOUNT, PETITION, DEFINITION, LIMITATIONS AND REQUIREMENTS — GUILT CONFIRMED BY DNA TESTING, PROCEDURES — PETITIONS FOR RESTITUTION — ORDER OF EXPUNGEMENT. — 1. Notwithstanding the sovereign immunity of the state, any individual who was found guilty of a felony in a Missouri court and was later determined to be "actually innocent" of such crime solely as a result of DNA profiling analysis may be paid restitution. The individual may receive an amount of fifty dollars per day for each day of post-conviction incarceration for the crime for which the individual is determined to be actually innocent. The petition for the payment of said restitution shall be filed with the sentencing court. For the purposes of this section, the term "actually innocent" shall mean:

(1) The individual was convicted of a felony for which a final order of release was entered by the court;

(2) All appeals of the order of release have been exhausted;

(3) The individual was not serving any term of a sentence for any other crime concurrently with the sentence for which he or she is determined to be actually innocent, unless such individual was serving another concurrent sentence because his or her parole was revoked by a court or the board of probation and parole in connection with the crime for which the person has been exonerated; and

(4) Testing ordered under section 547.035, RSMo, or testing by the order of any state or federal court, if such person was exonerated on or before August 28, 2004, or testing ordered under section 650.055, if such person was or is exonerated after August 28, 2004, demonstrates a person's innocence of the crime for which the person is in custody. Any individual who receives restitution under this section shall be prohibited from seeking any civil redress from the state, its departments and agencies, or any employee thereof, or any political subdivision or its employees. This section shall not be construed as a waiver of sovereign immunity for any purposes other than the restitution provided for herein. The

department of corrections shall determine the aggregate amount of restitution owed during a fiscal year. If insufficient moneys are appropriated each fiscal year to pay restitution to such persons, the department shall pay each individual who has received an order awarding restitution a pro rata share of the amount appropriated. Provided sufficient moneys are appropriated to the department, the amounts owed to such individual shall be paid on June thirtieth of each subsequent fiscal year, until such time as the restitution to the individual has been paid in full. However, no individual awarded restitution under this subsection shall receive more than thirty-six thousand five hundred dollars during each fiscal year. No interest on unpaid restitution shall be awarded to the individual. No individual who has been determined by the court to be actually innocent shall be responsible for the costs of care under section 217.831, RSMo.

2. If the results of the DNA testing confirm the person's guilt, then the person filing for DNA testing under section 547.035, RSMo, shall:

(1) Be liable for any reasonable costs incurred when conducting the DNA test, including but not limited to the cost of the test. Such costs shall be determined by the court and shall be included in the findings of fact and conclusions of law made by the court; and

(2) Be sanctioned under the provisions of section 217.262, RSMo.

3. A petition for payment of restitution under this section may only be filed by the individual determined to be actually innocent or the individual's legal guardian. No claim or petition for restitution under this section may be filed by the individual's heirs or assigns. An individual's right to receive restitution under this section is not assignable or otherwise transferrable. The state's obligation to pay restitution under this section shall cease upon the individual's death. Any beneficiary designation that purports to bequeath, assign, or otherwise convey the right to receive such restitution shall be void and unenforceable.

4. An individual who is determined to be "actually innocent" of a crime under this chapter shall automatically be granted an order of expungement from the court in which he or she pled guilty or was sentenced to expunge from all official records all recordations of his or her arrest, plea, trial or conviction. Upon granting of the order of expungement, the records and files maintained in any administrative or court proceeding in an associate or circuit division of the court shall be confidential and only available to the parties or by order of the court for good cause shown. The effect of such order shall be to restore such person to the status he or she occupied prior to such arrest, plea or conviction and as if such event had never taken place. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever and no such inquiry shall be made for information relating to an expungement under this section.

650.100. DEFINITIONS. — The following words shall have the following meanings unless a different meaning clearly appears from the context:

(1) "Central repository", is the location where all DNA samples collected from individuals defined in section 650.055, will be maintained and analyzed; where all authorized DNA profiles uploaded to the state's database will be maintained; and from where all authorized DNA profiles will be uploaded to the national DNA database;

(2) "CODIS", the Federal Bureau of Investigation's Combined DNA Index System that allows the storage and exchange of DNA records submitted by federal, state, and local DNA crime laboratories. The term "CODIS" includes the National DNA Index System administered and operated by the Federal Bureau of Investigation;

[(2)] (3) "Crime laboratories", those crime laboratories existing on September 28, 1979, in certain cities in this state and which have at least once prior to September 28, 1979, received funding through the Missouri council on criminal justice, and such other crime laboratories that may be created to serve specified regions of the state as determined by the director of the department of public safety;

[(3)] (4) "Department", the Missouri department of public safety;

[(4)] (5) "DNA", deoxyribonucleic acid. DNA is located in the cells and provides an individual's personal genetic blueprint. DNA encodes genetic information that is the basis of human heredity and forensic identification;

[(5)] (6) "DNA profile" refers to the collective results of all DNA identification analyses on an individual's DNA sample;

[(6)] (7) "DNA record", the DNA identification information stored in the state DNA database or CODIS. The DNA record is the result obtained from the DNA analysis. The DNA record is comprised of the characteristics of a DNA sample, which are of value in establishing the identity of individuals, **the DNA profile as well as data required to manage and operate the state's DNA database, to include the specimen identification number;**

[(7)] (8) "DNA sample", a biological sample provided by any person with respect to offenses covered by section 650.055 or submitted to the Missouri state highway patrol crime laboratory pursuant to sections 650.050 to 650.100 for analysis or storage or both;

(9) **"Forensic DNA analysis", the identification and evaluation of biological evidence in criminal matters using DNA technologies;**

[(8)] (10) "Local funds", any funds not provided by the federal government.

Approved June 29, 2006

SB 1026 [SCS SB 1026]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes the Lieutenant Governor to administer certain veterans' programs and funds

AN ACT to repeal sections 42.014 and 42.015, RSMo, and to enact in lieu thereof two new sections relating to veterans' programs.

SECTION

A. Enacting clause.

42.014. Development of veterans' programs encouraged — rulemaking authority — sunset provision.

42.015. Veterans' Historical Education Trust Fund established — deposit and investment of funds — use of funds.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 42.014 and 42.015, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 42.014 and 42.015, to read as follows:

42.014. DEVELOPMENT OF VETERANS' PROGRAMS ENCOURAGED — RULEMAKING AUTHORITY — SUNSET PROVISION. — 1. The Missouri general assembly shall, through appropriations as provided by law, encourage the development of any veterans' programs

approved by the executive director of the veterans' commission whereby the historical significance of veteran service can be dedicated to [outreach and] education inside public schools, veteran cemeteries, veteran homes, and other institutions as determined by rule and regulation.

2. The [executive director of the veterans' commission] **lieutenant governor** shall administer the provisions of this section and may adopt all rules and regulations necessary to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

3. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after August 28, 2004, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

42.015. VETERANS' HISTORICAL EDUCATION TRUST FUND ESTABLISHED — DEPOSIT AND INVESTMENT OF FUNDS — USE OF FUNDS. — 1. In order to contribute to the preservation of freedom, there is established in the state treasury a special trust fund, to be known as the "Veterans' Historical Education Trust Fund". The fund shall be administered by the [commission] **lieutenant governor** for the sole purpose of financing veterans' [outreach and] education programs established in section 42.014.

2. The director of revenue shall deposit in the treasury to the credit of the veterans' historical education trust fund all amounts received by or designated to the fund established pursuant to this section and any other amounts which may be received from grants, gifts, bequests, appropriations, the federal government, or other sources granted or given for this specific purpose. The state treasurer shall invest moneys in the veterans' historical education trust fund in the same manner as surplus state funds are invested pursuant to section 30.260, RSMo. All earnings resulting from the investment of moneys in the veterans' historical education trust fund shall be credited to the veterans' historical education trust fund.

3. As established by this section, funds appropriated by the general assembly from the veterans' historical education trust fund shall only be used by the [commission] **lieutenant governor** for purposes authorized pursuant to section 42.014 and shall not be used to supplant any existing program or service.

4. The provisions of section 33.080, RSMo, requiring all unexpended balances remaining in various state funds to be transferred and placed to the credit of the general revenue fund of this state at the end of each biennium shall not apply to the veterans' historical education trust fund.

Approved June 13, 2006

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Provides that the statute of limitations for recovery of lands does not extend to lands held by public utilities

AN ACT to repeal section 516.090, RSMo, and to enact in lieu thereof one new section relating to the statute of limitations for certain actions involving land held by a public utility.

SECTION

A. Enacting clause.

516.090. Statute not to extend to certain lands.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 516.090, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 516.090, to read as follows:

516.090. STATUTE NOT TO EXTEND TO CERTAIN LANDS. — Nothing contained in any statute of limitation shall extend to any lands given, granted, sequestered or appropriated to any public, pious or charitable use, or to any lands belonging to this state. **This section shall be construed to prohibit any judgment granting adverse possession to a claimant where the defendant possesses an interest in land described in a recorded deed and is a public utility as defined in section 386.020, RSMo.**

Approved June 12, 2006

SB 1056 [SB 1056]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the method of how community improvement districts may impose sales taxes

AN ACT to repeal section 67.1545, RSMo, and to enact in lieu thereof one new section relating to community improvement districts.

SECTION

A. Enacting clause.

67.1545. Sales and use tax authorized in certain districts — procedure to adopt, ballot language, imposition and collection by retailers — penalties for violations — deposit into trust fund, use — repeal procedure.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 67.1545, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 67.1545, to read as follows:

67.1545. SALES AND USE TAX AUTHORIZED IN CERTAIN DISTRICTS — PROCEDURE TO ADOPT, BALLOT LANGUAGE, IMPOSITION AND COLLECTION BY RETAILERS — PENALTIES FOR VIOLATIONS — DEPOSIT INTO TRUST FUND, USE — REPEAL PROCEDURE. — 1. Any district formed as a political subdivision may impose by resolution a district sales and use tax on

all retail sales made in such district which are subject to taxation pursuant to sections 144.010 to 144.525, RSMo, except sales of motor vehicles, trailers, boats or outboard motors and sales to public utilities. Any sales and use tax imposed pursuant to this section may be imposed [at a rate of one-eighth of one percent, one-fourth of one percent, three-eighths of one percent, one-half of one percent or one percent] **in increments of one-eighth of one percent, up to a maximum of one percent.** Such district sales and use tax may be imposed for any district purpose designated by the district in its ballot of submission to its qualified voters; except that, no resolution adopted pursuant to this section shall become effective unless the board of directors of the district submits to the qualified voters of the district, by mail-in ballot, a proposal to authorize a sales and use tax pursuant to this section. If a majority of the votes cast by the qualified voters on the proposed sales tax are in favor of the sales tax, then the resolution is adopted. If a majority of the votes cast by the qualified voters are opposed to the sales tax, then the resolution is void.

2. The ballot shall be substantially in the following form:

Shall the (insert name of district) Community Improvement District impose a community improvement districtwide sales and use tax at the maximum rate of (insert amount) for a period of (insert number) years from the date on which such tax is first imposed for the purpose of providing revenue for (insert general description of the purpose)?

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

3. Within ten days after the qualified voters have approved the imposition of the sales and use tax, the district shall, in accordance with section 32.097, RSMo, notify the director of the department of revenue. The sales and use tax authorized by this section shall become effective on the first day of the second calendar quarter after the director of the department of revenue receives notice of the adoption of such tax.

4. The director of the department of revenue shall collect any tax adopted pursuant to this section pursuant to section 32.087, RSMo.

5. In each district in which a sales and use tax is imposed pursuant to this section, every retailer shall add such additional tax imposed by the district to such retailer's sale price, and when so added such tax shall constitute a part of the purchase price, shall be a debt of the purchaser to the retailer until paid and shall be recoverable at law in the same manner as the purchase price.

6. In order to allow retailers to collect and report the sales and use tax authorized by this section as well as all other sales and use taxes required by law in the simplest and most efficient manner possible, a district may establish appropriate brackets to be used in the district imposing a tax pursuant to this section in lieu of the brackets provided in section 144.285, RSMo.

7. The penalties provided in sections 144.010 to 144.525, RSMo, shall apply to violations of this section.

8. All revenue received by the district from a sales and use tax imposed pursuant to this section which is designated for a specific purpose shall be deposited into a special trust fund and expended solely for such purpose. Upon the expiration of any sales and use tax adopted pursuant to this section, all funds remaining in the special trust fund shall continue to be used solely for the specific purpose designated in the resolution adopted by the qualified voters. Any funds in such special trust fund which are not needed for current expenditures may be invested by the board of directors pursuant to applicable laws relating to the investment of other district funds.

9. A district may repeal by resolution any sales and use tax imposed pursuant to this section before the expiration date of such sales and use tax unless the repeal of such sales and use tax will impair the district's ability to repay any liabilities the district has incurred, moneys the

district has borrowed or obligation the district has issued to finance any improvements or services rendered for the district.

Approved June 9, 2006

SB 1057 [SB 1057]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Includes physical therapists in the definition of health practitioner for the purposes of liens

AN ACT to repeal section 430.225, RSMo, and to enact in lieu thereof one new section relating to physical therapists.

SECTION

A. Enacting clause.

430.225. Definitions — distribution of insurance proceeds — limitation on liability.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 430.225, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 430.225, to read as follows:

430.225. DEFINITIONS — DISTRIBUTION OF INSURANCE PROCEEDS — LIMITATION ON LIABILITY. — 1. As used in sections 430.225 to 430.250, the following terms shall mean:

- (1) "Claim", a claim of a patient for:
 - (a) Damages from a tort-feasor; or
 - (b) Benefits from an insurance carrier;
- (2) "Clinic", a group practice of health practitioners or a sole practice of a health practitioner who has incorporated his or her practice;
- (3) "Health practitioner", a chiropractor licensed pursuant to chapter 331, RSMo, a podiatrist licensed pursuant to chapter 330, RSMo, a dentist licensed pursuant to chapter 332, RSMo, **a physical therapist licensed under chapter 334, RSMo**, a physician or surgeon licensed pursuant to chapter 334, RSMo, or an optometrist licensed pursuant to chapter 336, RSMo, while acting within the scope of their practice;
- (4) "Insurance carrier", any person, firm, corporation, association or aggregation of persons conducting an insurance business pursuant to chapter 375, 376, 377, 378, 379, 380, 381, or 383, RSMo;
- (5) "Other institution", a legal entity existing pursuant to the laws of this state which delivers treatment, care or maintenance to patients who are sick or injured;
- (6) "Patient", any person to whom a health practitioner, hospital, clinic or other institution delivers treatment, care or maintenance for sickness or injury caused by a tort-feasor from whom such person seeks damages or any insurance carrier which has insured such tort-feasor.

2. Clinics, health practitioners and other institutions, as defined in this section, shall have the same rights granted to hospitals in sections 430.230 to 430.250.

3. If the liens of such health practitioners, hospitals, clinics or other institutions exceed fifty percent of the amount due the patient, every health care practitioner, hospital, clinic or other institution giving notice of its lien, as aforesaid, shall share in up to fifty percent of the net proceeds due the patient, in the proportion that each claim bears to the total amount of all other

liens of health care practitioners, hospitals, clinics or other institutions. "Net proceeds", as used in this section, means the amount remaining after the payment of contractual attorney fees, if any, and other expenses of recovery.

4. In administering the lien of the health care provider, the insurance carrier may pay the amount due secured by the lien of the health care provider directly, if the claimant authorizes it and does not challenge the amount of the customary charges or that the treatment provided was for injuries caused by the tort-feasor.

5. Any health care provider electing to receive benefits hereunder releases the claimant from further liability on the cost of the services and treatment provided to that point in time.

Approved June 29, 2006

SB 1059 [SCS SB 1059]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates a portion of I-55 in St. Louis County as the "Officer Thomas G. Smith Jr. Memorial Highway"

AN ACT to amend chapter 227, RSMo, by adding thereto one new section relating to designation of a memorial highway.

SECTION

A. Enacting clause.

227.379. Officer Thomas G. Smith Jr. Memorial Highway designated for a portion of I-55 in St. Louis County.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 227, RSMo, is amended by adding thereto one new section, to be known as section 227.379, to read as follows:

227.379. OFFICER THOMAS G. SMITH, JR. MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF I-55 IN ST. LOUIS COUNTY. — **The portion of Interstate 55 in St. Louis County between Butler Hill Road and Meramec Bottom Road shall be designated the "Officer Thomas G. Smith, Jr. Memorial Highway". All signage costs shall be paid for by private donations.**

Approved June 29, 2006

SB 1060 [SCS SB 1060]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions regarding the tax contribution designation for the Missouri Military Family Relief Fund

AN ACT to repeal sections 143.1004 and 143.1005, RSMo, and to enact in lieu thereof two new sections relating to contribution designations for certain funds on state income tax return forms.

SECTION

A. Enacting clause.

143.1004. Tax refund may be designated to the Missouri military family relief fund — sunset provision.

143.1005. Income tax refunds, designation of a portion of to certain charitable organizations — transfer of contributions, procedure.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 143.1004 and 143.1005, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 143.1004 and 143.1005, to read as follows:

143.1004. TAX REFUND MAY BE DESIGNATED TO THE MISSOURI MILITARY FAMILY RELIEF FUND — SUNSET PROVISION. — 1. In each taxable year beginning on or after January 1, 2005, each individual or corporation entitled to a tax refund in an amount sufficient to make a designation under this section may designate that one dollar or any amount in excess of one dollar on a single return, and two dollars or any amount in excess of two dollars on a combined return, of the refund due be credited to the Missouri military family relief fund. **The contribution designation authorized by this section shall be clearly and unambiguously printed on the first page of each income tax return form provided by this state.** If any individual or corporation that is not entitled to a tax refund in an amount sufficient to make a designation under this section wishes to make a contribution to the Missouri military family relief fund, such individual or corporation may, by separate check, draft, or other negotiable instrument, send in with the payment of taxes, or may send in separately, that amount, clearly designated for the Missouri military family relief fund, the individual or corporation wishes to contribute. The department of revenue shall deposit such amount to the Missouri military family relief fund as provided in subsection 2 of this section.

2. The director of revenue shall deposit at least monthly all contributions designated by individuals under this section to the state treasurer for deposit to the Missouri military family relief fund. The fund shall be administered by a command sergeants major of the Missouri national guard, a command sergeants major of a reserve component or its equivalent, and a representative of the Missouri veterans commission.

3. The director of revenue shall deposit at least monthly all contributions designated by the corporations under this section, less an amount sufficient to cover the cost of collection, handling, and administration by the department of revenue during fiscal year 2006, to the Missouri military family relief fund, not to exceed seventy thousand dollars.

4. A contribution designated under this section shall only be deposited in the Missouri military family relief fund after all other claims against the refund from which such contribution is to be made have been satisfied.

5. Moneys deposited in the Missouri military family relief fund shall be distributed by the adjutant general in accordance with the provisions of sections 41.216 and 41.218, RSMo.

6. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

7. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after August 28, 2005, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on December thirty-first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

143.1005. INCOME TAX REFUNDS, DESIGNATION OF A PORTION OF TO CERTAIN CHARITABLE ORGANIZATIONS — TRANSFER OF CONTRIBUTIONS, PROCEDURE. — 1. For all tax years beginning on or after January 1, 2004, each individual or corporation entitled to a tax refund in an amount sufficient to make an irrevocable designation under this section may designate that an amount not less than one dollar but not more than two hundred dollars, on a single or a combined return, of the refund due be credited to the American Cancer Society, Heartland Division, Inc., fund, the ALS Lou Gehrig's Disease fund, the American Lung Association of Missouri fund, the Muscular Dystrophy Association fund, the Arthritis Foundation fund, the American Diabetes Association Gateway Area fund, the American Heart Association fund, the March of Dimes fund, or the National Multiple Sclerosis Society fund established in this section. The director of revenue shall establish a method that allows the contribution designations authorized by this section [and the contribution designation authorized in section 143.1020] to be combined into two contribution designation boxes clearly and unambiguously printed on the first page of each income tax return form provided by this state. The method may allow for a separate instruction list for the tax return that lists each authorized contribution designation together with the designation provided in section 143.1020. Any organization to be listed on the income tax return form under this section shall have qualified as a 501(c)(3) organization as defined by the Internal Revenue Code of 1986, as amended, for at least five years, shall be a statewide organization, shall have the cure of a chronic illness as its primary purpose, and shall submit to the director of revenue an application fee of one thousand dollars, and the fee shall be deposited in the designated fund. If any individual or corporation which is not entitled to a tax refund in an amount sufficient to make a designation under this section wishes to make an irrevocable contribution to the funds established in this section, such individual or corporation may, by separate check, draft, or other negotiable instrument, send in with the payment of taxes, or may send in separately, that amount, clearly designated for which funds the individual or corporation wishes to contribute, and the department of revenue shall forward such amount to the state treasurer for deposit to the designated funds as provided in this section.

2. Moneys accruing to and deposited in the designated funds shall not be part of total state revenues as defined in sections 17 and 18, article X, Constitution of Missouri, and the expenditure of such revenues shall not be an expense of state government under section 20, article X, Constitution of Missouri.

3. The director of revenue shall transfer at least monthly all contributions designated by individuals under this section to the state treasurer for deposit to the designated funds.

4. The director of revenue shall transfer at least monthly all contributions designated by corporations under this section, less one percent of the amount in each fund at the time of the transfer for the cost of collection and handling by the department of revenue, to be deposited in the state's general revenue fund, to the state treasurer for deposit to the designated funds. The amount transferred annually to the department of revenue for the cost of collection and handling shall not exceed one hundred thousand dollars.

5. A contribution designated under this section shall only be transferred and deposited in the designated funds after all other claims against the refund from which such contribution is to be made have been satisfied.

6. (1) There is hereby created in the state treasury the "American Cancer Society, Heartland Division, Inc., Fund", which shall consist of money collected under this section. The

state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with this section and sections 30.170 and 30.180, RSMo.

(2) There is hereby created in the state treasury the "ALS Lou Gehrig's Disease Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with this section and sections 30.170 and 30.180, RSMo.

(3) There is hereby created in the state treasury the "American Lung Association of Missouri Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with this section and sections 30.170 and 30.180, RSMo.

(4) There is hereby created in the state treasury the "Muscular Dystrophy Association Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with this section and sections 30.170 and 30.180, RSMo.

(5) There is hereby created in the state treasury the "Arthritis Foundation Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with this section and sections 30.170 and 30.180, RSMo.

(6) There is hereby created in the state treasury the "National Multiple Sclerosis Society Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with this section and sections 30.170 and 30.180, RSMo.

(7) There is hereby created in the state treasury the "American Diabetes Association Gateway Area Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with this section and sections 30.170 and 30.180, RSMo.

(8) There is hereby created in the state treasury the "American Heart Association Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with this section and sections 30.170 and 30.180, RSMo.

(9) There is hereby created in the state treasury the "March of Dimes Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with this section and sections 30.170 and 30.180, RSMo.

7. All moneys collected, transferred, and disbursed under this section shall stand appropriated, and any moneys remaining in the funds established in this section at the end of the biennium shall not revert to the credit of the general revenue fund.

8. The state treasurer shall invest moneys in the funds established in this section in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the funds.

9. The director of the department of revenue shall establish a procedure by which the moneys deposited in the funds shall be distributed semiannually to the American Cancer Society, Heartland Division, Inc., the Amyotrophic Lateral Sclerosis Association, and the American Lung Association of Missouri, the Muscular Dystrophy Association, the Arthritis Foundation, the American Diabetes Association Gateway Area, the National Multiple Sclerosis Society, the American Heart Association, and the March of Dimes.

10. Any organization receiving moneys under this section shall expend such moneys solely for the support of residents of this state.

11. Any organization receiving funds under this section shall report to the director of revenue annually, on forms prescribed by the director, detailing how the funds were expended. The director shall compile such information and provide a report to the general assembly in each year such expenditures are made.

12. The director of revenue is authorized to promulgate rules and regulations necessary to administer and enforce this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

13. If an organization that has the cure of sickle cell anemia as its primary purpose is formed that meets the requirements of this section, such organization shall be included on the income tax form in accordance with the provisions of this section and there shall be created in the state treasury a fund with the name of the organization. The fund shall consist of money collected under this section. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with this section and sections 30.170 and 30.180, RSMo.

Approved June 29, 2006

SB 1066 [SS SB 1066]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Provides certain telecommunication companies the opportunity to request a waiver from the requirement that tariffs be filed to reduce rates for any service in which the current rate exceeds the maximum

AN ACT to repeal section 392.245, RSMo, and to enact in lieu thereof one new section relating to telecommunications companies.

SECTION

A. Enacting clause.

392.245. Companies to be regulated, when — maximum prices, determined how, changed how — classification — change of rates — nonwireless basic local telecommunications services, average rate to be determined.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 392.245, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 392.245, to read as follows:

392.245. COMPANIES TO BE REGULATED, WHEN — MAXIMUM PRICES, DETERMINED HOW, CHANGED HOW — CLASSIFICATION — CHANGE OF RATES — NONWIRELESS BASIC LOCAL TELECOMMUNICATIONS SERVICES, AVERAGE RATE TO BE DETERMINED. — 1. The commission shall have the authority to ensure that rates, charges, tolls and rentals for telecommunications services are just, reasonable and lawful by employing price cap regulation. Any rate, charge, toll, or rental that does not exceed the maximum allowable price under this section shall be deemed to be just, reasonable, and lawful. As used in this chapter, "price cap regulation" shall mean establishment of maximum allowable prices for telecommunications services offered by an incumbent local exchange telecommunications company, which maximum allowable prices shall not be subject to increase except as otherwise provided in this section.

2. A large incumbent local exchange telecommunications company shall be subject to regulation under this section upon a determination by the commission that an alternative local exchange telecommunications company has been certified to provide basic local telecommunications service and is providing such service in any part of the large incumbent company's service area. A small incumbent local exchange telecommunications company may elect to be regulated under this section upon providing written notice to the commission if an alternative local exchange telecommunications company has been certified to provide basic local telecommunications service and is providing such service, or if two or more commercial mobile service providers providing wireless two-way voice communications services are providing services, in any part of the small incumbent company's service area, and the incumbent company shall remain subject to regulation under this section after such election.

3. Except as otherwise provided in this section, the maximum allowable prices established for a company under subsection 1 of this section shall be those in effect on December thirty-first of the year preceding the year in which the company is first subject to regulation under this section. Tariffs authorized under subsection 9 of this section shall be phased in as provided under such tariffs as approved by the commission.

4. (1) Except as otherwise provided in subsections 8 and 9 of this section and section 392.248, the maximum allowable prices for exchange access and basic local telecommunications services of a small, incumbent local exchange telecommunications company regulated under this section shall not be changed for a period of twelve months after the date the company is subject to regulation under this section. Except as otherwise provided in subsections 8 and 9 of this section and section 392.248, the maximum allowable prices for exchange access and basic local telecommunications services of a large, incumbent local exchange telecommunications company regulated under this section shall not be changed prior to January 1, 2000. Thereafter, the maximum allowable prices for exchange access and basic local telecommunications services of an incumbent local exchange telecommunications company shall be annually changed by one of the following methods:

(a) By the change in the telephone service component of the Consumer Price Index (CPI-TS), as published by the United States Department of Commerce or its successor agency for the preceding twelve months; **provided however, that if such a change in the CPI-TS for the preceding twelve months is negative, upon request by the company and approval by the commission for good cause shown, the commission may waive any requirement to reduce prices of exchange access and basic local telecommunications service and those existing prices shall remain the maximum allowable prices for purposes of this section until the next annual change. All revenues that are attributable to a CPI-TS reduction waiver shall be used for the purposes approved by the commission to benefit local exchange ratepayers in a specific exchange or exchanges, including but not limited to expanded local calling scopes;** or

(b) Upon request by the company and approval by the commission, by the change in the Gross Domestic Product Price Index (GDP-PI), as published by the United States Department of Commerce or its successor agency for the preceding twelve months, minus the productivity offset established for telecommunications service by the Federal Communication Commission and adjusted for exogenous factors;

(2) The commission shall approve a change to a maximum allowable price **or make a determination regarding a request for waiver** filed pursuant to paragraph (a) of subdivision (1) of this subsection within forty-five days of filing of notice by the local exchange telecommunications company. An incumbent local exchange telecommunications company shall file a tariff to reduce the rates charged for any service in any case in which the current rate exceeds the maximum allowable price established under this subsection.

(3) As a part of its request under paragraph (b) of subdivision (1) of this subsection, a company may seek commission approval to use a different productivity offset in lieu of the productivity offset established by the Federal Communication Commission. An adjustment

under paragraph (b) of subdivision (1) of this subsection shall not be implemented if the commission determines, after notice and hearing to be conducted within forty-five days of the filing of the notice of a change to a maximum allowable price, that it is not in the public interest. In making such a determination, the commission shall consider the relationship of the proposed price of service to its cost and the impact of competition on the incumbent local exchange telecommunications company's intrastate revenues from regulated telecommunications services. Any adjustments for exogenous factors shall be allocated to the maximum allowable prices for exchange access and basic local telecommunications service in the same percentage as the revenues for such company bears to such company's total revenues from basic local, nonbasic and exchange access services for the preceding twelve months.

(4) For the purposes of this section, the term "exogenous factor" shall mean a cumulative impact on a local exchange telecommunications company's intrastate regulated revenue requirement of more than three percent, which is attributable to federal, state or local government laws, regulations or policies which change the revenue, expense or investment of the company, and the term "exogenous factor" shall not include the effect of competition on the revenue, expense or investment of the company nor shall the term include any assessment made under section 392.248.

(5) An incumbent local exchange telecommunications company may change the rates for its services, consistent with the provisions of subsections 2 through 5 of section 392.200, but not to exceed the maximum allowable prices, by filing tariffs which shall be approved by the commission within thirty days, provided that any such rate is not in excess of the maximum allowable price established for such service under this section.

5. Each telecommunications service offered to business customers, other than exchange access service, of an incumbent local exchange telecommunications company regulated under this section shall be classified as competitive in any exchange in which at least two nonaffiliated entities in addition to the incumbent local exchange company are providing basic local telecommunications service to business customers within the exchange. Each telecommunications service offered to residential customers, other than exchange access service, of an incumbent local exchange telecommunications company regulated under this section shall be classified as competitive in an exchange in which at least two nonaffiliated entities in addition to the incumbent local exchange company are providing basic local telecommunications service to residential customers within the exchange. For purposes of this subsection:

(1) Commercial mobile service providers as identified in 47 U.S.C. Section 332(d)(1) and 47 C.F.R. Parts 22 or 24 shall be considered as entities providing basic local telecommunications service, provided that only one such nonaffiliated provider shall be considered as providing basic local telecommunications service within an exchange;

(2) Any entity providing local voice service in whole or in part over telecommunications facilities or other facilities in which it or one of its affiliates have an ownership interest shall be considered as a basic local telecommunications service provider regardless of whether such entity is subject to regulation by the commission. A provider of local voice service that requires the use of a third party, unaffiliated broadband network or dial-up Internet network for the origination of local voice service shall not be considered a basic local telecommunications service provider. For purposes of this subsection only, a "broadband network" is defined as a connection that delivers services at speeds exceeding two hundred kilobits per second in at least one direction;

(3) Regardless of the technology utilized, local voice service shall mean two-way voice service capable of receiving calls from a provider of basic local telecommunications services as defined by subdivision (4) of section 386.020, RSMo;

(4) Telecommunications companies only offering prepaid telecommunications service or only reselling telecommunications service as defined in subdivision (46) of section 386.020, RSMo, in the exchange being considered for competitive classification shall not be considered entities providing basic telecommunications service; and

(5) "Prepaid telecommunications service" shall mean a local service for which payment is made in advance that excludes access to operator assistance and long distance service;

(6) Upon request of an incumbent local exchange telecommunications company seeking competitive classification of business service or residential service, or both, the commission shall, within thirty days of the request, determine whether the requisite number of entities are providing basic local telecommunications service to business or residential customers, or both, in an exchange and if so shall approve tariffs designating all such business or residential services other than exchange access service, as competitive within such exchange. Notwithstanding any other provision of this subsection, any incumbent local exchange company may petition the commission for competitive classification within an exchange based on competition from any entity providing local voice service in whole or in part by using its own telecommunications facilities or other facilities or the telecom-munications facilities or other facilities of a third party, including those of the incumbent local exchange company as well as providers that rely on an unaffiliated third-party Internet service. The commission shall approve such petition within sixty days unless it finds that such competitive classification is contrary to the public interest. The commission shall maintain records of regulated providers of local voice service, including those regulated providers who provide local voice service over their own facilities, or through the use of facilities of another provider of local voice service. In reviewing an incumbent local exchange telephone company's request for competitive status in an exchange, the commission shall consider their own records concerning ownership of facilities and shall make all inquiries as are necessary and appropriate from regulated providers of local voice service to determine the extent and presence of regulated local voice providers in an exchange. If the services of an incumbent local exchange telecommunications company are classified as competitive under this subsection, the local exchange telecommunications company may thereafter adjust its rates for such competitive services upward or downward as it determines appropriate in its competitive environment, upon filing tariffs which shall become effective within the time lines identified in section 392.500. The commission shall, at least every two years, or where an incumbent local exchange telecom-munications company increases rates for basic local telecommunications services in an exchange classified as competitive, review those exchanges where an incumbent local exchange carrier's services have been classified as competitive, to determine if the conditions of this subsection for competitive classification continue to exist in the exchange and if the commission determines, after hearing, that such conditions no longer exist for the incumbent local exchange telecommunications company in such exchange, it shall reimpose upon the incumbent local exchange telecommunications company, in such exchange, the provisions of paragraph (c) of subdivision (2) of subsection 4 of section 392.200 and the maximum allowable prices established by the provisions of subsections 4 and 11 of this section, and, in any such case, the maximum allowable prices established for the tele-communications services of such incumbent local exchange telecommunications company shall reflect all index adjustments which were or could have been filed from all preceding years since the company's maximum allowable prices were first adjusted pursuant to subsection 4 or 11 of this section.

6. Nothing in this section shall be interpreted to alter the commission's jurisdiction over quality and conditions of service or to relieve telecommunications companies from the obligation to comply with commission rules relating to minimum basic local and interexchange telecommunications service.

7. A company regulated under this section shall not be subject to regulation under subsection 1 of section 392.240.

8. An incumbent local exchange telecommunications company regulated under this section may reduce intrastate access rates, including carrier common line charges, subject to the provisions of subsection 9 of this section, to a level not to exceed one hundred fifty percent of the company's interstate rates for similar access services in effect as of December thirty-first of the year preceding the year in which the company is first subject to regulation under this section. Absent commission action under subsection 10 of this section, an incumbent local exchange

telecommunications company regulated under this section shall have four years from the date the company becomes subject to regulation under this section to make the adjustments authorized under this subsection and subsection 9 of this section. Nothing in this subsection shall preclude an incumbent local exchange telecommunications company from establishing its intrastate access rates at a level lower than one hundred fifty percent of the company's interstate rates for similar access services in effect as of December thirty-first of the year preceding the year in which the company is first subject to regulation under this section.

9. Other provisions of this section to the contrary notwithstanding and no earlier than January 1, 1997, the commission shall allow an incumbent local exchange telecommunications company regulated under this section which reduces its intrastate access service rates pursuant to subsection 8 of this section to offset the revenue loss resulting from the first year's access service rate reduction by increasing its monthly maximum allowable prices applicable to basic local exchange telecommunications services by an amount not to exceed one dollar fifty cents. A large incumbent local exchange telecommunications company shall not increase its monthly rates applicable to basic local telecommunications service under this subsection unless it also reduces its rates for intraLATA interexchange telecommunications services by at least ten percent. No later than one year after the date the incumbent local exchange telecommunications company becomes subject to regulation under this section, the commission shall complete an investigation of the cost justification for the reduction of intrastate access rates and the increase of maximum allowable prices for basic local telecommunications service. If the commission determines that the company's monthly maximum allowable average statewide prices for basic local telecommunications service after adjustment pursuant to this subsection will be equal to or less than the long run incremental cost, as defined in section 386.020, RSMo, of providing basic local telecommunications service and that the company's intrastate access rates after adjustment pursuant to this subsection will exceed the long run incremental cost, as defined in section 386.020, RSMo, of providing intrastate access services, the commission shall allow the company to offset the revenue loss resulting from the remaining three-quarters of the total needed to bring that company's intrastate access rates to one hundred fifty percent of the interstate level by increasing the company's monthly maximum allowable prices applicable to basic local telecommunications service by an amount not to exceed one dollar fifty cents on each of the next three anniversary dates thereafter; otherwise, the commission shall order the reduction of intrastate access rates and the increase of monthly maximum allowable prices for basic local telecommunications services to be terminated at the levels the commission determines to be cost-justified. The total revenue increase due to the increase to the monthly maximum allowable prices for basic local telecommunications service shall not exceed the total revenue loss resulting from the reduction to intrastate access service rates.

10. Any telecommunications company whose intrastate access costs are reduced pursuant to subsections 8 and 9 of this section shall decrease its rates for intrastate toll telecommunications service to flow through such reduced costs to its customers. The commission may permit a telecommunications company to defer a rate reduction required by this subdivision until such reductions, on a cumulative basis, reach a level that is practical to flow through to its customers.

11. The maximum allowable prices for nonbasic telecommunications services of a small, incumbent local exchange telecommunications company regulated under this section shall not be changed until twelve months after the date the company is subject to regulation under this section or, on an exchange-by-exchange basis, until an alternative local exchange telecommunications company is certified and providing basic local telecommunications service in such exchange, whichever is earlier. The maximum allowable prices for nonbasic telecommunications services of a large, incumbent local exchange telecommunications company regulated under this section shall not be changed until January 1, 1999, or on an exchange-by-exchange basis, until an alternative local exchange telecommunications company is certified and providing basic local telecommunications service in such exchange, whichever is earlier. Thereafter, the maximum allowable prices for nonbasic telecommunications services of an

incumbent local exchange telecommunications company may be annually increased by up to five percent for each of the following twelve-month periods upon providing notice to the commission and filing tariffs establishing the rates for such services in such exchanges at such maximum allowable prices. This subsection shall not preclude an incumbent local exchange telecommunications company from proposing new telecommunications services and establishing prices for such new services. An incumbent local exchange telecommunications company may change the rates for its services, consistent with the provisions of subsections 2 through 5 of section 392.200, but not to exceed the maximum allowable prices, by filing tariffs which shall be approved by the commission within thirty days, provided that any such rate is not in excess of the maximum allowable price established for such service under this section.

12. The commission shall permit an incumbent local exchange telecommunications company regulated under this section to determine and set its own depreciation rates which shall be used for all intrastate regulatory purposes. Provided, however, that such a determination is not binding on the commission in determining eligibility for or reimbursement under the universal service fund established under section 392.248.

13. Prior to January 1, 2006, the commission shall determine the weighted, statewide average rate of nonwireless basic local telecommunications services as of August 28, 2005. The commission shall likewise determine the weighted, statewide average rate of nonwireless basic local telecommunications services two years and five years after August 28, 2005. The commission shall report its findings to the general assembly by January 30, 2008, and provide a second study by January 30, 2011. If the commission finds that the weighted, statewide average rate of nonwireless basic local telecommunications service in 2008 or 2011 is greater than the weighted, statewide average rate of nonwireless basic local telecommunications service in 2006 multiplied by one plus the percentage increase in the Consumer Price Index for all goods and services for the study periods, the commission shall recommend to the general assembly such changes in state law as the commission deems appropriate to achieve the purposes set forth in section 392.185. In determining the weighted, statewide average rate of nonwireless basic local telecommunications service, the commission shall exclude rate increases to nonwireless basic telecommunications service permitted under subsections 8 and 9 of this section and section 392.240 or exogenous costs incurred by the providers of nonwireless basic local telecommunications service.

Approved July 10, 2006

SB 1084 [HCS SB 1084]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Extends the sunset date for the Healthcare for Uninsured Children Program

AN ACT to repeal sections 208.631 and 208.930, RSMo, and to enact in lieu thereof two new sections relating to the sunset provisions for certain assistance programs, with an emergency clause.

SECTION

A. Enacting clause.

208.631. Program established, terminates, when — definitions.

208.930. Consumer-directed personal care assistance services, reimbursement for through eligible vendors — eligibility requirements — documentation — service plan required — premiums, amount — annual reevaluation — denial of benefits, procedure — expiration date.

B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 208.631 and 208.930, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 208.631 and 208.930, to read as follows:

208.631. PROGRAM ESTABLISHED, TERMINATES, WHEN — DEFINITIONS. — 1. Notwithstanding any other provision of law to the contrary, the department of social services shall establish a program to pay for health care for uninsured children. Coverage pursuant to sections 208.631 to 208.660 is subject to appropriation. The provisions of sections 208.631 to 208.657 shall be void and of no effect after [July 1, 2007] **June 30, 2008.**

2. For the purposes of sections 208.631 to 208.657, "children" are persons up to nineteen years of age. "Uninsured children" are persons up to nineteen years of age who are emancipated and do not have access to affordable employer-subsidized health care insurance or other health care coverage or persons whose parent or guardian have not had access to affordable employer-subsidized health care insurance or other health care coverage for their children for six months prior to application, are residents of the state of Missouri, and have parents or guardians who meet the requirements in section 208.636. A child who is eligible for medical assistance as authorized in section 208.151 is not uninsured for the purposes of sections 208.631 to 208.657.

208.930. CONSUMER-DIRECTED PERSONAL CARE ASSISTANCE SERVICES, REIMBURSEMENT FOR THROUGH ELIGIBLE VENDORS — ELIGIBILITY REQUIREMENTS — DOCUMENTATION — SERVICE PLAN REQUIRED — PREMIUMS, AMOUNT — ANNUAL REEVALUATION — DENIAL OF BENEFITS, PROCEDURE — EXPIRATION DATE. — 1. As used in this section, the term "department" shall mean the department of health and senior services.

2. Subject to appropriations, the department may provide financial assistance for consumer-directed personal care assistance services through eligible vendors, as provided in sections 208.900 through 208.927, to each person who was participating as a non-Medicaid eligible client pursuant to sections 178.661 through 178.673, RSMo, on June 30, 2005, and who:

- (1) Makes application to the department;
- (2) Demonstrates financial need and eligibility under subsection 3 of this section;
- (3) Meets all the criteria set forth in sections 208.900 through 208.927, except for subdivision (5) of subsection 1 of section 208.903;
- (4) Has been found by the department of social services not to be eligible to participate under guidelines established by the Medicaid state plan; and
- (5) Does not have access to affordable employer-sponsored health care insurance or other affordable health care coverage for personal care assistance services as defined in section 208.900. For purposes of this section, "access to affordable employer-sponsored health care insurance or other affordable health care coverage" refers to health insurance requiring a monthly premium less than or equal to one hundred thirty-three percent of the monthly average premium required in the state's current Missouri consolidated health care plan.

Payments made by the department under the provisions of this section shall be made only after all other available sources of payment have been exhausted.

3. (1) In order to be eligible for financial assistance for consumer-directed personal care assistance services under this section, a person shall demonstrate financial need, which shall be based on the adjusted gross income and the assets of the person seeking financial assistance and such person's spouse.

(2) In order to demonstrate financial need, a person seeking financial assistance under this section and such person's spouse must have an adjusted gross income, less disability-related medical expenses, as approved by the department, that is equal to or less than three hundred percent of the federal poverty level. The adjusted gross income shall be based on the most recent income tax return.

(3) No person seeking financial assistance for personal care services under this section and such person's spouse shall have assets in excess of two hundred fifty thousand dollars.

4. The department shall require applicants and the applicant's spouse, and consumers and the consumer's spouse to provide documentation for income, assets, and disability-related medical expenses for the purpose of determining financial need and eligibility for the program. In addition to the most recent income tax return, such documentation may include, but shall not be limited to:

- (1) Current wage stubs for the applicant or consumer and the applicant's or consumer's spouse;
- (2) A current W-2 form for the applicant or consumer and the applicant's or consumer's spouse;
- (3) Statements from the applicant's or consumer's and the applicant's or consumer's spouse's employers;
- (4) Wage matches with the division of employment security;
- (5) Bank statements; and
- (6) Evidence of disability-related medical expenses and proof of payment.

5. A personal care assistance services plan shall be developed by the department pursuant to section 208.906 for each person who is determined to be eligible and in financial need under the provisions of this section. The plan developed by the department shall include the maximum amount of financial assistance allowed by the department, subject to appropriation, for such services.

6. Each consumer who participates in the program is responsible for a monthly premium equal to the average premium required for the Missouri consolidated health care plan; provided that the total premium described in this section shall not exceed five percent of the consumer's and the consumer's spouse's adjusted gross income for the year involved.

7. (1) Nonpayment of the premium required in subsection 6 shall result in the denial or termination of assistance, unless the person demonstrates good cause for such nonpayment.

(2) No person denied services for nonpayment of a premium shall receive services unless such person shows good cause for nonpayment and makes payments for past-due premiums as well as current premiums.

(3) Any person who is denied services for nonpayment of a premium and who does not make any payments for past-due premiums for sixty consecutive days shall have their enrollment in the program terminated.

(4) No person whose enrollment in the program is terminated for nonpayment of a premium when such nonpayment exceeds sixty consecutive days shall be reenrolled unless such person pays any past-due premiums as well as current premiums prior to being reenrolled. Nonpayment shall include payment with a returned, refused, or dishonored instrument.

8. (1) Consumers determined eligible for personal care assistance services under the provisions of this section shall be reevaluated annually to verify their continued eligibility and financial need. The amount of financial assistance for consumer-directed personal care assistance services received by the consumer shall be adjusted or eliminated based on the outcome of the reevaluation. Any adjustments made shall be recorded in the consumer's personal care assistance services plan.

(2) In performing the annual reevaluation of financial need, the department shall annually send a reverification eligibility form letter to the consumer requiring the consumer to respond within ten days of receiving the letter and to provide income and disability-related medical expense verification documentation. If the department does not receive the consumer's response and documentation within the ten-day period, the department shall send a letter notifying the consumer that he or she has ten days to file an appeal or the case will be closed.

(3) The department shall require the consumer and the consumer's spouse to provide documentation for income and disability-related medical expense verification for purposes of the eligibility review. Such documentation may include but shall not be limited to the documentation listed in subsection 4 of this section.

9. (1) Applicants for personal care assistance services and consumers receiving such services pursuant to this section are entitled to a hearing with the department of social services if eligibility for personal care assistance services is denied, if the type or amount of services is set at a level less than the consumer believes is necessary, if disputes arise after preparation of the personal care assistance plan concerning the provision of such services, or if services are discontinued as provided in section 208.924. Services provided under the provisions of this section shall continue during the appeal process.

(2) A request for such hearing shall be made to the department of social services in writing in the form prescribed by the department of social services within ninety days after the mailing or delivery of the written decision of the department of health and senior services. The procedures for such requests and for the hearings shall be as set forth in section 208.080.

10. Unless otherwise provided in this section, all other provisions of sections 208.900 through 208.927 shall apply to individuals who are eligible for financial assistance for personal care assistance services under this section.

11. The department may promulgate rules and regulations, including emergency rules, to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. Any provisions of the existing rules regarding the personal care assistance program promulgated by the department of elementary and secondary education in title 5, code of state regulations, division 90, chapter 7, which are inconsistent with the provisions of this section are void and of no force and effect.

12. The provisions of this section shall expire on June 30, [2006] **2008**.

SECTION B. EMERGENCY CLAUSE. — Because immediate action is necessary to ensure uninterrupted financial assistance for consumer-directed personal care services, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect on July 1, 2006, or upon its passage and approval, whichever later occurs.

Approved June 12, 2006
SB 1086 [HCS SCS SB 1086]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the law regarding St. Louis police officer salaries

AN ACT to repeal section 84.160, RSMo, and to enact in lieu thereof one new section relating to maximum amounts of compensation for police officers, with an emergency clause.

SECTION

- A. Enacting clause.
- 84.160. Board of police commissioners to determine salaries — overtime, how compensated — other employment benefits — unused vacation, compensation for certain officers.
- B. Emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 84.160, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 84.160, to read as follows:

84.160. BOARD OF POLICE COMMISSIONERS TO DETERMINE SALARIES — OVERTIME, HOW COMPENSATED — OTHER EMPLOYMENT BENEFITS — UNUSED VACATION, COMPENSATION FOR CERTAIN OFFICERS. — 1. [Based upon rank and length of service, the board of police commissioners may authorize maximum amounts of compensation for members of the police force in accordance with the following tables. The amounts of compensation set out in the following tables shall be the maximum amount of compensation payable to commissioned employees in each of the categories, except as expressly provided in this section.

2. From July 1, 2005, until June 30, 2006:

SALARY MATRIX-POLICE OFFICER THROUGH CHIEF OF POLICE-FISCAL YEAR

						Asst.		
	P.O.	Sgt.	Lieut.	Capt.	Maj.	Lt. Col.	Chief	Chief
Yrs.	Salary	Salary	Salary	Salary	Salary	Salary	Salary	Salary
0	34331							
1	35532							
2	36643							
3	38706							
4	39727							
5	41053	49445						
6	42379	49591						
7	44923	52550	57626					
8	46748	54679	59955					
9	48638	56878	62361	67793				
10	48807	57045	62528	67961				
11	49335	57213	62694	68129	74370			
12	49511	57379	62863	68296	74538	76479	80388	95054
13	49677	57547	63030	68464	74703	79023	82932	95387
14	49843	57715	63197	68630	74871	79189	83099	95721
15	50012	57881	63364	68797	75038	79358	83268	96055
16	50178	58048	63530	68964	75206	79524	83433	96390
17	50347	58216	63699	69132	75374	79693	83602	96724
18	50513	58383	63866	69369	75539	79858	83768	97057
19	50679	58550	64034	69466	75707	80025	83934	97393
20	50847	58717	64200	69633	75875	80193	84104	97728
21	51014	58883	64367	69800	76042	80360	84269	98061
22	51181	59052	64535	69967	76208	80529	84437	98395
23	51349	59219	64702	70135	76375	80694	84604	98730
24	51515	59385	64870	70302	76542	80864	84771	99062
25	51683	59553	65036	70470	76711	81029	84940	99398
26	51850	59719	65203	70637	76878	81196	85105	99733
27	52019	59888	65371	70803	77044	81365	85273	100068
28	52185	60055	65538	70971	77210	81530	85438	100402
29	52351	60221	65703	71138	77379	81699	85607	100734
30	52518	60389	65872	71303	77546	81864	85776	101070

3. Each of the above-mentioned salaries shall be payable in biweekly installments. The above-mentioned salaries assume twenty-six biweekly installments falling within the effective dates of the salary matrix. If twenty-seven biweekly installments fall within the effective dates of the salary matrix it is assumed that the salaries within the matrix will be adjusted upward accordingly to reflect the effect of an extra pay period falling within the effective dates of the salary matrix. Any increase in salaries within the matrix due to twenty-seven biweekly installments falling within the effective dates of the matrix will not continue into a period in which only twenty-six biweekly installments are paid.] **As of August 28, 2006, the board of**

police commissioners shall have the authority to compute and establish the annual salary of each member of the police force without receiving prior authorization from the general assembly.

2. Each officer of police and patrolman whose regular assignment requires nonuniformed attire may receive, in addition to his or her salary, an allowance not to exceed three hundred sixty dollars per annum payable biweekly. **Notwithstanding the provisions of subsection 1 of this section to the contrary**, no additional compensation or compensatory time off for overtime, court time, or standby court time shall be paid or allowed to any officer of the rank of sergeant or above. Notwithstanding any other provision of law to the contrary, nothing in this section shall prohibit the payment of additional compensation pursuant to this subsection to officers of the ranks of sergeants and above, provided that funding for such compensation shall not:

(1) Be paid from the general funds of either the city or the board of police commissioners of the city; or

(2) Be violative of any federal law or other state law.

[4.] **3.** It is the duty of the municipal assembly or common council of the cities to make the necessary appropriation for the expenses of the maintenance of the police force in the manner herein and hereafter provided; provided, that in no event shall such municipal assembly or common council be required to appropriate for such purposes (including, but not limited to, costs of funding pensions or retirement plans) for any fiscal year a sum in excess of any limitation imposed by article X, section 21, Missouri Constitution; and provided further, that such municipal assembly or common council may appropriate a sum in excess of such limitation for any fiscal year by an appropriations ordinance enacted in conformity with the provisions of the charter of such cities.

[5.] **4. Notwithstanding the provisions of subsection 1 of this section to the contrary**, the board of police commissioners shall pay additional compensation for all hours of service rendered by probationary patrolmen and patrolmen in excess of the established regular working period, and the rate of compensation shall be one and one-half times the regular hourly rate of pay to which each member shall normally be entitled; except that, the court time and court standby time shall be paid at the regular hourly rate of pay to which each member shall normally be entitled. No credit shall be given or deductions made from payments for overtime for the purpose of retirement benefits.

[6.] **5. Notwithstanding the provisions of subsection 1 of this section to the contrary**, probationary patrolmen and patrolmen shall receive additional compensation for authorized overtime, court time and court standby time whenever the total accumulated time exceeds forty hours. The accumulated forty hours shall be taken as compensatory time off at the officer's discretion with the approval of his supervisor.

[7.] **6.** The allowance of compensation or compensatory time off for court standby time shall be computed at the rate of one-third of one hour for each hour spent on court standby time.

[8.] **7.** The board of police commissioners may effect programs to provide additional compensation to its employees for successful completion of academic work at an accredited college or university, in amounts not to exceed ten percent of their yearly salaries or for field training officer and lead officer responsibilities in amounts not to exceed three percent of their yearly salaries for field training officer responsibilities and an additional three percent of their yearly salaries for lead officer responsibilities. The board may designate up to one hundred fifty employees as field training officers and up to fifty employees as lead officers.

[9.] **8.** The board of police commissioners:

(1) Shall provide or contract for life insurance coverage and for insurance benefits providing health, medical and disability coverage for officers and employees of the department;

(2) Shall provide or contract for insurance coverage providing salary continuation coverage for officers and employees of the police department;

(3) Shall provide health, medical, and life insurance coverage for retired officers and employees of the police department. Health, medical and life insurance coverage shall be made

available for purchase to the spouses or dependents of deceased retired officers and employees of the police department who receive pension benefits pursuant to sections 86.200 to 86.364, RSMo, at the rate that such dependent's or spouse's coverage would cost under the appropriate plan if the deceased were living;

(4) May pay an additional shift differential compensation to members of the police force for evening and night tour of duty in an amount not to exceed ten percent of the officer's base hourly rate.

[10.] **9. Notwithstanding the provisions of subsection 1 of this section to the contrary,** the board of police commissioners shall pay additional compensation to members of the police force up to and including the rank of police officer for any full hour worked between the hours of 11:00 p.m. and 7:00 a.m., in amounts equal to five percent of the officer's base hourly pay.

[11.] **10.** The board of police commissioners, from time to time and in its discretion, may pay additional compensation to police officers, sergeants and lieutenants by paying commissioned officers in the aforesaid ranks for accumulated, unused vacation time. Any such payments shall be made in increments of not less than forty hours, and at rates equivalent to the base straight-time rates being earned by said officers at the time of payment; except that, no such officer shall be required to accept payment for accumulated unused vacation time.

SECTION B. EMERGENCY CLAUSE. — Because of the need to compensate police officers adequately, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect on June 26, 2006.

Approved June 21, 2006

SB 1094 [SB 1094]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows Springfield to dissolve a special business district

AN ACT to repeal sections 71.790, 71.796, and 71.798, RSMo, and to enact in lieu thereof three new sections relating to special business districts.

SECTION

- A. Enacting clause.
- 71.790. Special business districts, how established — dissolution in the city of Springfield.
- 71.796. Powers of governing body in establishing and maintaining district.
- 71.798. Governing body to determine expenditures.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 71.790, 71.796, and 71.798, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 71.790, 71.796, and 71.798, to read as follows:

71.790. SPECIAL BUSINESS DISTRICTS, HOW ESTABLISHED — DISSOLUTION IN THE CITY OF SPRINGFIELD. — The governing body of any city may establish special business districts in the manner provided hereafter, and upon establishment each such district shall be a body corporate and politic and a political subdivision of the state. **The governing body of any home rule city with more than one hundred fifty-one thousand five hundred but fewer than one hundred fifty-one thousand six hundred inhabitants may dissolve a special business district in accordance with the procedure set forth in sections 67.950 and 67.955, RSMo; provided, however, that any proceeds from the disposal of assets of the district after payment of all indebtedness shall be used by the governing body of such city in a manner consistent with the purposes of the district and within the boundary of the former district.**

71.796. POWERS OF GOVERNING BODY IN ESTABLISHING AND MAINTAINING DISTRICT. — The governing body in establishing and maintaining a business district shall have all the powers necessary to carry out any and all improvements adopted in the ordinance establishing the district including:

- (1) To close existing streets or alleys or to open new streets and alleys or to widen or narrow existing streets and alleys in whole or in part;
- (2) To construct or install pedestrian or shopping malls, plazas, sidewalks or moving sidewalks, parks, meeting and display facilities, convention centers, arenas, bus stop shelters, lighting, benches or other seating furniture, sculptures, telephone booths, traffic signs, fire hydrants, kiosks, trash receptacles, marquees, awnings, canopies, walls and barriers, paintings, murals, alleys, shelters, display cases, fountains, rest rooms, information booths, aquariums, aviaries, tunnels and ramps, pedestrian and vehicular overpasses and underpasses, and each and every other useful or necessary or desired improvement;
- (3) To landscape and plant trees, bushes and shrubbery, flowers and each and every and other kind of decorative planting;
- (4) To install and operate, or to lease, public music and news facilities;
- (5) To purchase and operate buses, minibuses, mobile benches, and other modes of transportation;
- (6) To construct and operate child-care facilities;
- (7) To lease space within the district for sidewalk caf tables and chairs;

- (8) To construct lakes, dams, and waterways of whatever size;
- (9) To provide special police or cleaning facilities and personnel for the protection and enjoyment of the property owners and the general public using the facilities of such business district;
- (10) To maintain, as hereinafter provided, all city owned streets, alleys, malls, bridges, ramps, tunnels, lawns, trees and decorative plantings of each and every nature, and every structure or object of any nature whatsoever constructed or operated by the said municipality;
- (11) To grant permits for newsstands, sidewalk cafes, and each and every other useful or necessary or desired private usage of public or private property;
- (12) To prohibit or restrict vehicular traffic on such streets within the business district as the governing body may deem necessary and to provide the means for access by emergency vehicles to or in such areas;
- (13) To lease, acquire, **dispose of**, construct, reconstruct, extend, maintain, or repair parking lots or parking garages, both above and below ground, or other facilities for the parking of vehicles, including the power to install such facilities in public areas, whether such areas are owned in fee or by easement;
- (14) To promote business activity in the district by, but not limited to, advertising, decoration of any public place in the area, promotion of public events which are to take place on or in public places, furnishing of music in any public place, and the general promotion of trade activities in the district.

71.798. GOVERNING BODY TO DETERMINE EXPENDITURES. — The governing body of the city creating the district shall have sole discretion as to how the revenue derived from any tax to be imposed herein, **or any revenue derived from disposition of assets of the district**, shall be used within the scope of the above purposes. The governing body of the city shall appoint an advisory board or commission to make recommendations as to its use. The governing body of the city creating the district shall not decrease the level of publicly funded services in the district existing prior to creation of the district or transfer the financial burden of providing the services to the district unless the services at the same time are decreased throughout the city, nor shall the governing body discriminate in the provision of the publicly funded services between areas included in such a district and areas not so included.

Approved June 12, 2006

SB 1117 [SCS SB 1117]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions of the Missouri Rx Plan Advisory Commission

AN ACT to repeal sections 208.784 and 208.792, RSMo, and to enact in lieu thereof two new sections relating to the Missouri Rx plan advisory commission.

SECTION

- A. Enacting clause.
- 208.784. Coordination of prescription drug coverage with Medicare Part D — enrollment in program — Medicaid dual eligibles, effect of.
- 208.792. Advisory commission established, members, duties.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 208.784 and 208.792, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 208.784 and 208.792, to read as follows:

208.784. COORDINATION OF PRESCRIPTION DRUG COVERAGE WITH MEDICARE PART D — ENROLLMENT IN PROGRAM — MEDICAID DUAL ELIGIBLES, EFFECT OF. — 1. The program shall coordinate prescription drug coverage with the Medicare Part D prescription drug benefit, including related supplies as determined by the department, who:

- (1) Is a resident of the state of Missouri and is either:
 - (a) Sixty-five years of age or older; or
 - (b) Is disabled and receiving a Social Security benefit and is enrolled in the Medicare program;
- (2) Is enrolled in a Medicare Part D drug plan;
- (3) [Is not a member of a Medicare Advantage Plan that provides a prescription drug benefit;
- (4)] Is not a member of a retirement plan that is receiving a benefit under the Medicare Prescription Drug, Improvement and Modernization Act of 2003, P.L. 108-173.

2. The department shall give initial enrollment priority to the Medicaid dual eligible population. A second enrollment priority will be afforded to Medicare-eligible applicants with annual household incomes at or below one hundred fifty percent of the federal poverty guidelines who also meet the asset test. Medicaid dual eligible persons may be automatically enrolled into the program, as long as they may opt out of the program if they so choose. The department shall determine the procedures for automatic enrollment in, and election out of, the Missouri Rx plan. Applicants meeting the eligibility requirements set forth in this section may begin enrolling in the program as determined by the department.

3. An individual or married couple who meet the eligibility requirements in subsection 1 of this section and who are not Medicaid dual eligible persons may apply for enrollment in the program by submitting an application to the department, or the department's designee, that attests to the age, residence, household income, and liquid assets of the individual or couple.

208.792. ADVISORY COMMISSION ESTABLISHED, MEMBERS, DUTIES. — 1. There is hereby established the "Missouri Rx Plan Advisory Commission" within the department of [health and senior] **social** services[, division of senior services and regulation] to provide advice on the benefit design and operational policy of the Missouri Rx plan established in sections 208.782 to 208.798. The commission shall consist of the following fifteen members:

- (1) The lieutenant governor, in his or her capacity as advocate for [the elderly] **senior citizens**;
- (2) Two members of the senate, with one member from the majority party appointed by the president pro tem of the senate and one member of the minority party appointed by the president pro tem of the senate with the concurrence of the minority floor leader of the senate;
- (3) Two members of the house of representatives, with one member from the majority party appointed by the speaker of the house of representatives and one member of the minority party appointed by the speaker of the house of representatives with the concurrence of the minority floor leader of the house of representatives;
- (4) The director of the division of medical services in the department of social services;
- (5) The director of the division of senior **and disability** services [and regulation] in the department of health and senior services;
- (6) The chairperson of the governor's commission on special health, psychological and social needs of minority older individuals;
- (7) The following four members appointed by the governor, with the advice and consent of the senate:
 - (a) A licensed pharmacist;

(b) A licensed physician;
 (c) A representative from a senior advocacy group; and
 (d) A representative from an area agency on aging;
 (8) A representative from the pharmaceutical manufacturers industry as a nonvoting member appointed by the president pro tem of the senate and the speaker of the house of representatives;

(9) One public member appointed by the president pro tem of the senate; and

(10) One public member appointed by the speaker of the house of representatives.

In making the initial appointment to the committee, the governor, president pro tem, and speaker shall stagger the terms of the appointees so that four members serve initial terms of two years, four members serve initial terms of three years, four members serve initial terms of four years, and one member serves an initial term of one year. All members appointed thereafter shall serve three-year terms. All members shall be eligible for reappointment. The commission shall elect a chair and may employ an executive director and such professional, clerical, and research personnel as may be necessary to assist in the performance of the commission's duties.

2. Recognizing the unique medical needs of the senior African-American population, the president pro tem of the senate, speaker of the house of representatives, and governor will collaborate to ensure that there is adequate minority representation among legislative members and other members of the commission.

3. The commission:

(1) May provide advice on guidelines, policies, and procedures necessary to establish the Missouri Rx plan;

(2) Shall educate Missouri residents on quality prescription drug programs and cost-containment strategies in medication therapy;

(3) Shall assist Missouri residents in enrolling or accessing prescription drug assistance programs for which they are eligible; and

(4) Shall hold quarterly meetings and other meetings as deemed necessary.

4. The members of the commission shall receive no compensation for their service on the commission, but shall be reimbursed for ordinary and necessary expenses incurred in the performance of their duties as a member of the commission.

Approved June 9, 2006

SB 1122 [HCS SCS SB 1122]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows certain state universities to convey or transfer, except in fee simple, the title or interest in real property

AN ACT to repeal section 37.005, RSMo, and to enact in lieu thereof one new section relating to conveyance of land by certain state universities.

SECTION

A. Enacting clause.

37.005. Powers and duties, generally.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 37.005, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 37.005, to read as follows:

37.005. POWERS AND DUTIES, GENERALLY. — 1. Except as provided herein, the office of administration shall be continued as set forth in house bill 384, seventy-sixth general assembly and shall be considered as a department within the meaning used in the Omnibus State Reorganization Act of 1974. The commissioner of administration shall appoint directors of all major divisions within the office of administration.

2. The commissioner of administration shall be a member of the governmental emergency fund committee as ex officio comptroller and the director of the department of revenue shall be a member in place of the chief of the planning and construction division.

3. The office of administration is designated the "Missouri State Agency for Surplus Property" as required by Public Law 152, eighty-first Congress as amended, and related laws for disposal of surplus federal property. All the powers, duties and functions vested by sections 37.075 and 37.080, and others, are transferred by type I transfer to the office of administration as well as all property and personnel related to the duties. The commissioner shall integrate the program of disposal of federal surplus property with the processes of disposal of state surplus property to provide economical and improved service to state and local agencies of government. The governor shall fix the amount of bond required by section 37.080. All employees transferred shall be covered by the provisions of chapter 36, RSMo, and the Omnibus State Reorganization Act of 1974.

4. The commissioner of administration shall replace the director of revenue as a member of the board of fund commissioners and assume all duties and responsibilities assigned to the director of revenue by sections 33.300 to 33.540, RSMo, relating to duties as a member of the board and matters relating to bonds and bond coupons.

5. All the powers, duties and functions of the administrative services section, section 33.580, RSMo, and others, are transferred by a type I transfer to the office of administration and the administrative services section is abolished.

6. The commissioner of administration shall, in addition to his or her other duties, cause to be prepared a comprehensive plan of the state's field operations, buildings owned or rented and the communications systems of state agencies. Such a plan shall place priority on improved availability of services throughout the state, consolidation of space occupancy and economy in operations.

7. The commissioner of administration shall from time to time examine the space needs of the agencies of state government and space available and shall, with the approval of the board of public buildings, assign and reassign space in property owned, leased or otherwise controlled by the state. Any other law to the contrary notwithstanding, upon a determination by the commissioner that all or part of any property is in excess of the needs of any state agency, the commissioner may lease such property to a private or government entity. Any revenue received from the lease of such property shall be deposited into the fund or funds from which moneys for rent, operations or purchase have been appropriated. The commissioner shall establish by rule the procedures for leasing excess property.

8. The commissioner of administration shall make the selection of a personnel director from the names of the three highest ranking available eligibles as provided in section 36.080, RSMo. The personnel advisory board, the personnel division and the personnel director in the office of administration shall retain the functions, duties and powers prescribed in chapter 36, RSMo. Members of the personnel advisory board shall be nominated by the commissioner of administration and appointed by the governor with the advice and consent of the senate.

9. The commissioner of administration is hereby authorized to coordinate and control the acquisition and use of electronic data processing (EDP) and automatic data processing (ADP) in the executive branch of state government. For this purpose, the office of administration will have authority to:

(1) Develop and implement a long-range computer facilities plan for the use of EDP and ADP in Missouri state government. Such plan may cover, but is not limited to, operational standards, standards for the establishment, function and management of service centers, coordination of the data processing education, and planning standards for application development and implementation;

(2) Approve all additions and deletions of EDP and ADP hardware, software, and support services, and service centers;

(3) Establish standards for the development of annual data processing application plans for each of the service centers. These standards shall include review of post-implementation audits. These annual plans shall be on file in the office of administration and shall be the basis for equipment approval requests;

(4) Review of all state EDP and ADP applications to assure conformance with the state information systems plan, and the information systems plans of state agencies and service centers;

(5) Establish procurement procedures for EDP and ADP hardware, software, and support service;

(6) Establish a charging system to be used by all service centers when performing work for any agency;

(7) Establish procedures for the receipt of service center charges and payments for operation of the service centers. The commissioner shall maintain a complete inventory of all state-owned or -leased EDP and ADP equipment, and annually submit a report to the general assembly which shall include starting and ending EDP and ADP costs for the fiscal year previously ended, and the reasons for major increases or variances between starting and ending costs. The commissioner shall also adopt, after public hearing, rules and regulations designed to protect the rights of privacy of the citizens of this state and the confidentiality of information contained in computer tapes or other storage devices to the maximum extent possible consistent with the efficient operation of the office of administration and contracting state agencies.

10. Except as provided in subsection 13 of this section, the fee title to all real property now owned or hereafter acquired by the state of Missouri, or any department, division, commission, board or agency of state government, other than real property owned or possessed by the state highways and transportation commission, conservation commission, state department of natural resources, and the University of Missouri, shall on May 2, 1974, vest in the governor. The governor may not convey or otherwise transfer the title to such real property, unless such conveyance or transfer is first authorized by an act of the general assembly. The provisions of this subsection requiring authorization of a conveyance or transfer by an act of the general assembly shall not, however, apply to the granting or conveyance of an easement to any rural electric cooperative as defined in chapter 394, RSMo, municipal corporation, quasi-governmental corporation owning or operating a public utility, or a public utility, except railroads, as defined in chapter 386, RSMo. The governor, with the approval of the board of public buildings, may, upon the request of any state department, agency, board or commission not otherwise being empowered to make its own transfer or conveyance of any land belonging to the state of Missouri which is under the control and custody of such department, agency, board or commission, grant or convey without further legislative action, for such consideration as may be agreed upon, easements across, over, upon or under any such state land to any rural electric cooperative, as defined in chapter 394, RSMo, municipal corporation, or quasi-governmental corporation owning or operating a public utility, or a public utility, except "railroad", as defined in chapter 386, RSMo. The easement shall be for the purpose of promoting the general health, welfare and safety of the public and shall include the right of ingress or egress for the purpose of constructing, maintaining or removing any pipeline, power line, sewer or other similar public utility installation or any equipment or appurtenances necessary to the operation thereof, except that "railroad" as defined in chapter 386, RSMo, shall not be included in the provisions of this subsection unless such conveyance or transfer is first authorized by an act of the general

assembly. The easement shall be for such consideration as may be agreed upon by the parties and approved by the board of public buildings. The attorney general shall approve the form of the instrument of conveyance. The commissioner of administration shall prepare management plans for such properties in the manner set out in subsection 7 of this section.

11. The commissioner of administration shall administer a revolving "Administrative Trust Fund" which shall be established by the state treasurer which shall be funded annually by appropriation and which shall contain moneys transferred or paid to the office of administration in return for goods and services provided by the office of administration to any governmental entity or to the public. The state treasurer shall be the custodian of the fund, and shall approve disbursements from the fund for the purchase of goods or services at the request of the commissioner of administration or the commissioner's designee. The provisions of section 33.080, RSMo, notwithstanding, moneys in the fund shall not lapse, unless and then only to the extent to which the unencumbered balance at the close of any fiscal year exceeds one-twelfth of the total amount appropriated, paid, or transferred to the fund during such fiscal year. The commissioner shall prepare an annual report of all receipts and expenditures from the fund.

12. All the powers, duties and functions of the department of community affairs relating to statewide planning are transferred by type I transfer to the office of administration.

13. The titles which are vested in the governor by or pursuant to this section to real property assigned to any of the educational institutions referred to in section 174.020, RSMo, on June 15, 1983, are hereby transferred to and vested in the board of regents of the respective educational institutions, and the titles to real property and other interests therein hereafter acquired by or for the use of any such educational institution, notwithstanding provisions of this section, shall vest in the board of regents of the educational institution. The board of regents may not convey or otherwise transfer the title to or other interest in such real property unless the conveyance or transfer is first authorized by an act of the general assembly, except as provided in section 174.042, RSMo, and except that the board of regents may grant easements over, in and under such real property without further legislative action.

14. **Notwithstanding any provision of subsection 13 of this section to the contrary, the board of governors of Missouri Western State University, Central Missouri State University, Missouri State University, or Missouri Southern State University; or the board of regents of Southeast Missouri State University, Northwest Missouri State University, or Harris-Stowe State University; or the board of curators of Lincoln University may convey or otherwise transfer, except in fee simple, the title to or other interest in such real property without authorization by an act of the general assembly. The provisions of this subsection shall expire August 28, 2011.**

15. All county sports complex authorities, and any sports complex authority located in a city not within a county, in existence on August 13, 1986, and organized under the provisions of sections 64.920 to 64.950, RSMo, are assigned to the office of administration, but such authorities shall not be subject to the provisions of subdivision (4) of subsection 6 of section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo, as amended.

[15.] 16. All powers, duties, and functions vested in the administrative hearing commission, sections 621.015 to 621.205, RSMo, and others, are transferred to the office of administration by a type III transfer.

Approved June 21, 2006

SB 1139 [SB 1139]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates the portion of Highway 21 from the intersection of Lindbergh Avenue to the intersection of Gravois Road in St. Louis County as the "Sergeant William McEntee Memorial Highway"

AN ACT to amend chapter 227, RSMo, by adding thereto one new section relating to the Sergeant William McEntee Memorial highway.

SECTION

A. Enacting clause.

227.386. Sergeant William McEntee Memorial Highway designated for a portion of Highway 21 in St. Louis County.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 227, RSMo, is amended by adding thereto one new section, to be known as section 227.386, to read as follows:

227.386. SERGEANT WILLIAM MCENTEE MEMORIAL HIGHWAY DESIGNATED FOR A PORTION OF HIGHWAY 21 IN ST. LOUIS COUNTY. — **The portion of highway 21 from the intersection of Lindbergh Avenue to the intersection of Gravois Road in St. Louis County shall be designated the "Sergeant William McEntee Memorial Highway". The department of transportation shall erect and maintain appropriate signs commemorating this portion of highway. Costs for such designation shall be paid for by the Kirkwood Police officers.**

Approved June 29, 2006

SB 1146 [SB 1146]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the process for review of an administrative agency's decisions

AN ACT to repeal sections 536.010 and 536.100, RSMo, and to enact in lieu thereof two new sections relating to administrative procedure and review.

SECTION

A. Enacting clause.

536.010. Definitions.

536.100. Party aggrieved entitled to judicial review — waiver of independent review, when.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 536.010 and 536.100, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 536.010 and 536.100, to read as follows:

536.010. DEFINITIONS.— For the purpose of this chapter:

(1) "Affected small business" or "affects small business" means any potential or actual requirement imposed upon a small business or minority small business through a state agency's proposed or adopted rule that will cause direct and significant economic burden upon a small business or minority small business, or that is directly related to the formation, operation, or expansion of a small business;

(2) "Agency" means any administrative officer or body existing under the constitution or by law and authorized by law or the constitution to make rules or to adjudicate contested cases, except those in the legislative or judicial branches;

(3) "Board" means the small business regulatory fairness board, **except when the word is used in section 536.100;**

(4) "Contested case" means a proceeding before an agency in which legal rights, duties or privileges of specific parties are required by law to be determined after hearing;

(5) The term "decision" includes decisions and orders whether negative or affirmative in form;

(6) "Rule" means each agency statement of general applicability that implements, interprets, or prescribes law or policy, or that describes the organization, procedure, or practice requirements of any agency. The term includes the amendment or repeal of an existing rule, but does not include:

(a) A statement concerning only the internal management of an agency and which does not substantially affect the legal rights of, or procedures available to, the public or any segment thereof;

(b) A declaratory ruling issued pursuant to section 536.050, or an interpretation issued by an agency with respect to a specific set of facts and intended to apply only to that specific set of facts;

(c) An intergovernmental, interagency, or intraagency memorandum, directive, manual or other communication which does not substantially affect the legal rights of, or procedures available to, the public or any segment thereof;

(d) A determination, decision, or order in a contested case;

(e) An opinion of the attorney general;

(f) Those portions of staff manuals, instructions or other statements issued by an agency which set forth criteria or guidelines to be used by its staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution, or settlement of cases, when the disclosure of such statements would enable law violators to avoid detection, facilitate disregard of requirements imposed by law, or give a clearly improper advantage to persons who are in an adverse position to the state;

(g) A specification of the prices to be charged for goods or services sold by an agency as distinguished from a license fee, or other fees;

(h) A statement concerning only the physical servicing, maintenance or care of publicly owned or operated facilities or property;

(i) A statement relating to the use of a particular publicly owned or operated facility or property, the substance of which is indicated to the public by means of signs or signals;

(j) A decision by an agency not to exercise a discretionary power;

(k) A statement concerning only inmates of an institution under the control of the department of corrections and human resources or the division of youth services, students enrolled in an educational institution, or clients of a health care facility, when issued by such an agency;

(l) Statements or requirements establishing the conditions under which persons may participate in exhibitions, fairs or similar activities, managed by the state or an agency of the state;

(m) Income tax or sales forms, returns and instruction booklets prepared by the state department of revenue for distribution to taxpayers for use in preparing tax returns;

(7) "Small business" means a for-profit enterprise consisting of fewer than one hundred full- or part-time employees;

(8) "State agency" means each board, commission, department, officer or other administrative office or unit of the state other than the general assembly, the courts, the governor, or a political subdivision of the state, existing under the constitution or statute, and authorized by the constitution or statute to make rules or to adjudicate contested cases.

536.100. PARTY AGGRIEVED ENTITLED TO JUDICIAL REVIEW — WAIVER OF INDEPENDENT REVIEW, WHEN. — Any person who has exhausted all administrative remedies provided by law and who is aggrieved by a final decision in a contested case, whether such decision is affirmative or negative in form, shall be entitled to judicial review thereof, as provided in sections 536.100 to 536.140, unless some other provision for judicial review is provided by statute; provided, however, that nothing in this chapter contained shall prevent any person from attacking any void order of an agency at any time or in any manner that would be proper in the absence of this section. If the agency[, other than the administrative hearing commission] or any board, **other than the administrative hearing commission**, established to provide independent review of the decisions of a department or division that is authorized to promulgate rules and regulations under this chapter, fails to issue a final decision in a contested case within the earlier of:

(1) Sixty days after the conclusion of a hearing on the contested case; or

(2) One hundred eighty days after the receipt by the agency of a written request for the issuance of a final decision,

then the person shall be considered to have exhausted all administrative remedies and shall be considered to have received a final decision in favor of the agency and shall be entitled to immediate judicial review as provided in sections 536.100 to 536.140 or other provision for judicial review provided by statute. **In cases, whether contested or not, where the law provides for an independent review of an agency's decision by a board other than the administrative hearing commission and further provides for a de novo review of the board's decision by the circuit court, a party aggrieved by the agency's decision may, within thirty days after it receives notice of that decision, waive independent review by the board and instead file a petition in the circuit court for the de novo review of the agency's decision. The party filing the petition under this section shall be considered to have exhausted all administrative remedies.**

Approved July 12, 2006

SB 1155 [SB 1155]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions on the technical advisory committee on the quality of patient care and nursing practices

AN ACT to repeal section 197.291, RSMo, and to enact in lieu thereof one new section relating to the technical advisory committee on the quality of patient care and nursing practices.

SECTION

A. Enacting clause.

197.291. Technical advisory committee on quality of patient care and nursing practices established, members, appointment, duties.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 197.291, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 197.291, to read as follows:

197.291. TECHNICAL ADVISORY COMMITTEE ON QUALITY OF PATIENT CARE AND NURSING PRACTICES ESTABLISHED, MEMBERS, APPOINTMENT, DUTIES. — 1. There is hereby established a "Technical Advisory Committee on the Quality of Patient Care and Nursing Practices" within the department of health and senior services. The committee shall be comprised of nine members appointed by the director of the department of health and senior services [on or before December 1, 2000], one of whom shall be a representative of the department of health and senior services and one of whom shall be a representative of the general public. In addition, the director shall appoint three members representing licensed registered nurses from a list of recommended appointees provided by the Missouri Nurses Association, one member representing licensed practical nurses from a list of recommended appointees provided by the Missouri Licensed Practical Nurses Association, two members from a list of recommended appointees provided by the Missouri Hospital Association, and one member representing licensed physicians from a list of recommended appointees provided by the Missouri State Medical Association.

2. The committee shall work with hospitals, nurses, physicians, state agencies, community groups and academic researchers to develop specific recommendations related to staffing, improving the quality of patient care, and insuring the safe and appropriate employment of licensed nurses within hospitals and ambulatory surgical centers. The committee shall develop recommendations and submit an annual report based on such recommendations to the governor, chairpersons of standing health and appropriations committees of the general assembly and the department of health and senior services no later than December thirty-first of each year[, beginning in 2001].

3. The department of health and senior services shall provide such support as the committee members require to aid it in the performance of its duties.

4. Committee members shall not be compensated for their services but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

5. The provisions of this section shall expire on December 31, [2006] **2011**.

Approved June 12, 2006

SB 1165 [HCS SB 1165]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Extends the fees imposed under the water pollution statutes until December 31, 2009

AN ACT to repeal section 644.054, RSMo, and to enact in lieu thereof one new section relating to water pollution control fees.

SECTION

A. Enacting clause.

644.054. Fees, billing and collection — administration, generally — fees to become effective, when — fees to expire, when — variances granted, when — joint committee for restructuring fees to be appointed, report — joint committee convened to consider fee restructuring report.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 644.054, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 644.054, to read as follows:

644.054. FEES, BILLING AND COLLECTION — ADMINISTRATION, GENERALLY — FEES TO BECOME EFFECTIVE, WHEN — FEES TO EXPIRE, WHEN — VARIANCES GRANTED, WHEN — JOINT COMMITTEE FOR RESTRUCTURING FEES TO BE APPOINTED, REPORT — JOINT COMMITTEE CONVENED TO CONSIDER FEE RESTRUCTURING REPORT. — 1. Fees imposed in sections 644.052 and 644.053 shall, except for those fees imposed pursuant to subsection 4 and subsections 6 to 13 of section 644.052, become effective October 1, 1990, and shall expire December 31, [2007] **2009**. Fees imposed pursuant to subsection 4 and subsections 6 to 13 of section 644.052 shall become effective August 28, 2000, and shall expire on December 31, [2007] **2009**. The clean water commission shall promulgate rules and regulations on the procedures for billing and collection. All sums received through the payment of fees shall be placed in the state treasury and credited to an appropriate subaccount of the natural resources protection fund created in section 640.220, RSMo. Moneys in the subaccount shall be expended, upon appropriation, solely for the administration of sections 644.006 to 644.141. Fees collected pursuant to subsection 10 of section 644.052 by a city, a public sewer district, a public water district or other publicly owned treatment works are state fees. Five percent of the fee revenue collected shall be retained by the city, public sewer district, public water district or other publicly owned treatment works as reimbursement of billing and collection expenses.

2. The commission may grant a variance pursuant to section 644.061 to reduce fees collected pursuant to section 644.052 for facilities that adopt systems or technologies that reduce the discharge of water contaminants substantially below the levels required by commission rules.

3. Fees imposed in subsections 2 to 6 of section 644.052 shall be due [in accordance with the following schedule after August 27, 2000:

(1) For new or renewed permits, fees shall be due] on the date of application and on each anniversary date of permit issuance thereafter until the permit is terminated[;

(2) For permits in effect on August 27, 2000, fees shall be due on each anniversary date of permit issuance until the permit is terminated;

(3) For general permits issued pursuant to subdivisions (2) and (4) of subsection 6 of section 644.052 and in effect on August 27, 2000, the permittee will be credited thirty dollars on each anniversary date of permit issuance that falls between August 27, 2000, and the date the permit expires].

4. **There shall be convened a joint committee appointed by the president pro tem of the senate and the speaker of the house of representatives to consider proposals for restructuring the fees imposed in sections 644.052 and 644.053. The committee shall review the state's implementation of the federal clean water program, storm water, and related state clean water responsibilities, and evaluate the costs to the state for maintaining the program. The committee shall prepare and submit a report, including recommendations on funding the state clean water program, to the governor, the house of representatives, and the senate no later than December 31, 2008.**

Approved June 21, 2006

SB 1177 [SB 1177]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows a local registrar to be an employee of either a county or city health agency

AN ACT to repeal section 193.065, RSMo, and to enact in lieu thereof one new section relating to local registrars.

SECTION

A. Enacting clause.

193.065. Local registrars, qualifications, appointment — deputies — duties — recorder of deeds appointed as local registrar (St. Louis City).

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 193.065, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 193.065, to read as follows:

193.065. LOCAL REGISTRARS, QUALIFICATIONS, APPOINTMENT — DEPUTIES — DUTIES — RECORDER OF DEEDS APPOINTED AS LOCAL REGISTRAR (ST. LOUIS CITY). — The state registrar may appoint local registrars, each of whom shall be a person employed by an official county **or city** health agency except as otherwise herein provided. Each local registrar shall be authorized under the provisions of section 193.255 and subsection 2 of section 193.265 to issue certifications of death records. A local registrar, with the approval of the state registrar, may appoint deputies to carry out some or all of the responsibilities of the local registrar as provided in sections 193.005 to 193.325 or the regulations promulgated pursuant thereto. The local registrars shall immediately report to the state registrar violations of sections 193.005 to 193.325 or the regulations promulgated pursuant thereto. In any city not within a county, the state registrar shall appoint the recorder of deeds for such city as the local registrar.

Approved June 29, 2006

SB 1189 [SB 1189]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates the "Holocaust Education and Awareness Commission"

AN ACT to amend chapter 161, RSMo, by adding thereto one new section relating to the holocaust education and awareness commission.

SECTION

A. Enacting clause.

161.700. Holocaust education and awareness commission created, members — holocaust defined — executive director may be employed.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 161, RSMo, is amended by adding thereto one new section, to be known as section 161.700, to read as follows:

161.700. HOLOCAUST EDUCATION AND AWARENESS COMMISSION CREATED, MEMBERS — HOLOCAUST DEFINED — EXECUTIVE DIRECTOR MAY BE EMPLOYED. — 1. This section shall be known as the "Holocaust Education and Awareness Commission Act".

2. There is hereby created a permanent state commission known as the "Holocaust Education and Awareness Commission". The commission shall be housed in the department of elementary and secondary education and shall promote implementation of holocaust education and awareness programs in Missouri in order to encourage understanding of the holocaust and discourage bigotry.

3. The commission shall be composed of twelve members to be appointed by the governor with advice and consent of the senate. The makeup of the commission shall be:

- (1)** The commissioner of higher education;
- (2)** The commissioner of elementary and secondary education;
- (3)** The president of the University of Missouri system; and
- (4)** Nine members of the public, representative of the diverse religious and ethnic heritage groups populating Missouri.

4. The holocaust education and awareness commission may receive such funds as appropriated from public moneys or contributed to it by private sources. It may sponsor programs or publications to educate the public about the crimes of genocide in an effort to deter indifference to crimes against humanity and human suffering wherever they occur.

5. The term "holocaust" shall be defined as the period from 1933 through 1945 when six million Jews and millions of others were murdered in Nazi concentration camps as part of a structured, state-sanctioned program of genocide.

6. The commission may employ an executive director and such other persons to carry out its functions.

Approved June 29, 2006

SB 1197 [SB 1197]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows sixteen-year olds to donate blood with parental permission

AN ACT to repeal section 431.068, RSMo, and to enact in lieu thereof one new section relating to persons donating blood.

SECTION

A. Enacting clause.

431.068. Persons seventeen or older may donate blood — written permission required for sixteen-year-olds.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 431.068, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 431.068, to read as follows:

431.068. PERSONS SEVENTEEN OR OLDER MAY DONATE BLOOD — WRITTEN PERMISSION REQUIRED FOR SIXTEEN-YEAR-OLDS. — 1. Notwithstanding the provisions of section 431.061, any person seventeen years of age or older may donate blood voluntarily

without the necessity of obtaining the permission or authorization of his or her parent or guardian.

2. **Any person sixteen years of age may donate blood, if that person obtains written permission or authorization from his or her parent or guardian.**

3. No person under the age of eighteen shall receive compensation for any blood donated without the written authorization of his or her parent or guardian.

Approved June 29, 2006

SB 1207 [SB 1207]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows New Madrid County to impose an additional sales tax, which proceeds shall be shared among the county and the cities, towns and villages within the county

AN ACT to repeal section 67.547, RSMo, and to enact in lieu thereof one new section relating to sales tax imposed in counties.

SECTION

A. Enacting clause.

67.547. Sales tax imposed in counties, rate of tax — election procedure — St. Louis County and New Madrid County, distribution of revenue, limitation on use — all-county trust fund for overpayment refunds and bad check redemption — abolishing tax, procedure.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 67.547, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 67.547, to read as follows:

67.547. SALES TAX IMPOSED IN COUNTIES, RATE OF TAX — ELECTION PROCEDURE — ST. LOUIS COUNTY AND NEW MADRID COUNTY, DISTRIBUTION OF REVENUE, LIMITATION ON USE — ALL-COUNTY TRUST FUND FOR OVERPAYMENT REFUNDS AND BAD CHECK REDEMPTION — ABOLISHING TAX, PROCEDURE. — 1. In addition to the tax authorized by section 67.505, any county may, by a majority vote of its governing body, impose an additional county sales tax on all sales which are subject to taxation under the provisions of sections 144.010 to 144.525, RSMo. The tax authorized by this section shall be in addition to any and all other sales tax allowed by law; except that no ordinance or order imposing a sales tax under the provisions of this section shall be effective unless the governing body of the county submits to the voters of the county, at a county or state general, primary or special election, a proposal to authorize the governing body of the county to impose such tax.

2. The ballot of submission shall contain, but need not be limited to the following language:

Shall the county of (county's name) impose a countywide sales tax of (insert rate) percent?

[] YES [] NO

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

If a majority of the votes cast on the proposal by the qualified voters voting thereon are in favor of the proposal, then the ordinance or order and any amendments thereto shall be in effect. If a majority of the votes cast by the qualified voters voting are opposed to the proposal, then the governing body of the county shall have no power to impose the sales tax as herein authorized unless and until the governing body of the county submits another proposal to authorize the governing body of the county to impose the sales tax under the provisions of this section and such proposal is approved by a majority of the qualified voters voting thereon.

3. The sales tax may be imposed at a rate of one-eighth of one percent, one-fourth of one percent, three-eighths of one percent, or one-half of one percent on the receipts from the sale at retail of all tangible personal property or taxable services at retail within any county adopting such tax, if such property and services are subject to taxation by the state of Missouri under the provisions of sections 144.010 to 144.525, RSMo.

4. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed under this section.

5. In any first class county having a charter form of government and having a population of nine hundred thousand or more, the proceeds of the sales tax authorized by this section shall be distributed so that an amount equal to three-eighths of the proceeds of the tax shall be distributed to the county and the remaining five-eighths shall be distributed to the cities, towns and villages and the unincorporated area of the county on the ratio that the population of each bears to the total population of the county. The population of each city, town or village and the unincorporated area of the county and the total population of the county shall be determined on the basis of the most recent federal decennial census.

6. **In any county of the second classification with more than nineteen thousand seven hundred but fewer than nineteen thousand eight hundred inhabitants, the proceeds of the sales tax authorized by this section shall be distributed so that an amount equal to three-fourths of the proceeds of the tax shall be distributed to the county and the remaining one-fourth shall be distributed equally among the incorporated cities, towns, and villages of the county. Upon request from any city, town, or village within the county, the county shall make available for inspection the distribution report provided to the county by the department of revenue. Any expenses incurred by the county in supplying such report to a city, town, or village shall be paid by such city, town, or village.**

7. In any first class county having a charter form of government and having a population of nine hundred thousand or more, no tax shall be imposed pursuant to this section for the purpose of funding in whole or in part the construction, operation or maintenance of a sports stadium, field house, indoor or outdoor recreational facility, center, playing field, parking facility or anything incidental or necessary to a complex suitable for any type of professional sport or recreation, either upon, above or below the ground.

[7.] 8. The director of revenue may authorize the state treasurer to make refunds from the amounts in the trust fund and credited to any county for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such counties. If any county abolishes the tax, the county shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such county, the director of revenue shall remit the balance in the account to the county and close the account of that county. The director

of revenue shall notify each county of each instance of any amount refunded or any check redeemed from receipts due the county.

Approved June 12, 2006

SB 1208 [SB 1208]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies law allowing corporations to amend their articles of incorporation

AN ACT to repeal section 351.090, RSMo, and to enact in lieu thereof one new section relating to amendments to articles of incorporation for corporations.

SECTION

A. Enacting clause.

351.090. Articles of incorporation, how amended.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 351.090, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 351.090, to read as follows:

351.090. ARTICLES OF INCORPORATION, HOW AMENDED. — 1. At any time or times before the corporation has received any payment for any of its shares, the board of directors may adopt amendments to the articles of incorporation by executing a certificate of amendment as provided in subsection 1 of section 351.095.

2. After the corporation has received any payment for any of its shares, amendments to the articles of incorporation may be made only in the following manner:

(1) The board of directors may adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of shareholders, which may be either an annual or a special meeting, except that the proposed amendment need not be adopted by the board of directors and may be directly submitted **by the board of directors** to any annual or special meeting of shareholders.

(2) Written notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each shareholder of record entitled to vote thereon within the time and in the manner provided in section 351.230 for the giving of notice of meetings of shareholders. If the meeting is an annual meeting, the proposed amendment or summary shall, nevertheless, be included in the notice of the annual meeting.

(3) At the meeting a vote of the shareholders entitled to vote thereon shall be taken on the proposed amendment. Subject to subsections 3 and 6 of this section, the proposed amendment shall be adopted upon receiving the affirmative vote of a majority of the outstanding shares entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event the proposed amendment shall be adopted upon receiving the affirmative vote of a majority of the outstanding shares of each class of shares entitled to vote thereon as a class and of the total shares entitled to vote thereon.

3. If the articles of incorporation or bylaws provide for cumulative voting in the election of directors, the number of directors shall not be decreased to less than three by amendment to the articles of incorporation when the number of shares voting against the proposal for decrease would be sufficient to elect a director if the shares were voted cumulatively at an election of three

directors. If the articles of incorporation or bylaws do not provide for cumulative voting in the election of directors, then the number of directors shall only be decreased to less than three by amendment to the articles of incorporation approved by the affirmative vote of a majority of the outstanding shares entitled to vote on the amendment.

4. If any amendment made under section 351.085 effects a reduction of stated capital, then the corporation making the amendment shall comply with the applicable provisions of sections 351.195 and 351.200, as well as the provisions of this section.

5. Any number of amendments may be submitted to the shareholders and voted on by them at one meeting.

6. A proposed amendment which provides that section 351.407 does not apply to control share acquisitions of shares of a corporation shall be adopted upon receiving the affirmative vote of two-thirds of all outstanding shares entitled to vote thereon, unless any class of shares is entitled to vote thereon as a class, in which event the proposed amendment shall be adopted upon receiving the affirmative vote of two-thirds of the outstanding shares of each class of shares entitled to vote thereon as a class and of the total shares entitled to vote thereon. This subsection shall not affect or limit the right, power or authority of any issuing public corporation to adopt any other amendment or to take any other action in addition to an amendment providing for the nonapplicability of section 351.407 to control share acquisitions of the issuing public corporation pursuant to this section.

7. When a corporation has ten or fewer shareholders, cumulative voting may be abolished only by an affirmative vote of the holders of at least two-thirds of the outstanding shares.

Approved July 10, 2006

SB 1216 [SB 1216]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies the law relating to travel clubs

AN ACT to repeal sections 407.1240 and 407.1249, RSMo, and to enact in lieu thereof two new sections relating to travel clubs.

SECTION

- A. Enacting clause.
- 407.1240. Definitions.
- 407.1249. Right to rescind and cancel, time period allowed.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 407.1240 and 407.1249, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 407.1240 and 407.1249, to read as follows:

407.1240. DEFINITIONS. — As used in sections 407.1240 to 407.1252, the following terms shall mean:

- (1) "Business day", [a day that government offices in this state are open for business] **every day except Sundays and holidays;**
 - (2) "Holiday", **any day that the United States Post Office is closed;**
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(3) "Membership fee", the initial or reoccurring fee that is unrelated to actual pass-through costs associated with the use and enjoyment of travel benefits;

[(3)] (4) "Rescission statement", a statement that shall be printed on all contracts pertaining to the purchase of travel club memberships from a travel club that shall provide in at least fourteen-point bold type the following statement:

"Assuming you have not accessed any travel benefits and have returned to the travel club all materials delivered to the purchaser at closing, you have the right to rescind this transaction for a period of three business days after the date of this agreement. To exercise the right of rescission, you must deliver to the travel club **either in person or** by [certified] **first class** mail **postmarked** within the three-business-day period, [return receipt requested,] at the address referenced in this contract, a written statement of your desire to rescind this transaction, and all materials that were provided and given to you at the time of the purchase of your travel club membership.";

[(4)] (5) "Surety bond", any surety bond, corporate guaranty, letter of credit, certificate of deposit, or other bond or financial assurance in the sum of fifty thousand dollars that is required to be delivered by travel clubs which have been adjudged to have violated subsection 4 or 5 of section 407.1252 and in the event that such surety bond is accessed subsequent to posting as a result of the need to reimburse purchasers, the amount of the surety bond shall be increased by ten thousand dollars per reimbursement. All surety bonds shall:

(a) Serve as a source of funds to reimburse purchasers of travel club memberships who validly exercise their rights under the rescission statement in their contract but who are not, after judgment, provided a refund equal to the purchase price of their unused travel club memberships or, after settlement, equal to the terms of the settlement;

(b) Serve as a source of funds to reimburse purchasers of travel club memberships who have been proven to be the subject of fraud;

(c) Remain in full force and effect during the period of time the travel club conducts its business activities; and

(d) Be deemed acceptable to the attorney general if:

a. It is issued by an insurance company that possesses at least a "B+" rating, or its equivalent by A.M. Best or its successors or by any other nationally recognized entity that rates the creditworthiness of insurance companies;

b. It is in the form of a letter of credit that is issued by a banking institution with assets of at least seventy-five million dollars;

c. It is in the form of a certificate of deposit; or

d. It is in a form that otherwise is acceptable to the attorney general;

[(5)] (6) "Travel benefits", benefits that are offered to travel club purchasers and customers that include all forms of overnight resort, condominium, timeshare, hotel, motel, and other rental housing of every nature; all forms of air travel and rental car access; all forms of cruise line access [and usage]; and all other forms of discounted travel [services] **benefits** of every nature;

[(6)] (7) "Travel club", any business enterprise that either directly, indirectly, or through the use of a fulfillment company or other third party offers to sell to the public the reoccurring right to purchase travel benefits at prices that are represented as being discounted from prices otherwise not generally available to the public and charges members or customers a membership fee that collectively equals no less than seven hundred fifty dollars.

407.1249. RIGHT TO RESCIND AND CANCEL, TIME PERIOD ALLOWED. — Assuming a purchaser has not otherwise accessed any travel benefits and returns to the travel club all materials of value delivered to the purchaser at closing, all purchasers of travel club memberships from a travel club that is registered shall have the nonwaivable right for a period of three business days after the date of their purchase to rescind and cancel their travel club purchase and receive a full refund of all sums otherwise paid to the travel club within fifteen business days of such rescission, minus the [cost of any services actually consumed or utilized] **actual and reasonable**

cost of processing the refund, including credit card fees if applicable. Individuals who purchase travel club memberships from a travel club that is not registered under sections 407.1240 to 407.1252 shall have a nonwaivable right for a period of three years from the date of purchase to rescind and cancel their travel club membership and shall receive a full refund within fifteen business days of such rescission.

Approved June 29, 2006

SB 1229 [HCS SS SCS SB 1229]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Creates a tax credit for children in crisis

AN ACT to repeal sections 135.327 and 135.333, RSMo, and to enact in lieu thereof two new sections relating to tax credits for children in crisis.

SECTION

- A. Enacting clause.
- 135.327. Special needs child adoption tax credit — definitions — nonrecurring adoption expenses, amount — individual and business entities tax credit, amount, time for filing application — assignment of tax credit, when — children in crisis tax credit, amount, verification, time for filing — amount of tax credits redeemed, allocation, availability of unclaimed allocations — application procedure — credit denial resulting in balance due — appropriation calculations — rulemaking authority — sunset provision.
- 135.333. Credit exceeding tax due or applied for, not refunded — may be carried forward, time limit — effect of assignment, transfer or sale of tax credit.

Be it enacted by the General Assembly of the State of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 135.327 and 135.333, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 135.327 and 135.333, to read as follows:

135.327. SPECIAL NEEDS CHILD ADOPTION TAX CREDIT — DEFINITIONS — NONRECURRING ADOPTION EXPENSES, AMOUNT — INDIVIDUAL AND BUSINESS ENTITIES TAX CREDIT, AMOUNT, TIME FOR FILING APPLICATION — ASSIGNMENT OF TAX CREDIT, WHEN — CHILDREN IN CRISIS TAX CREDIT, AMOUNT, VERIFICATION, TIME FOR FILING — AMOUNT OF TAX CREDITS REDEEMED, ALLOCATION, AVAILABILITY OF UNCLAIMED ALLOCATIONS — APPLICATION PROCEDURE — CREDIT DENIAL RESULTING IN BALANCE DUE — APPROPRIATION CALCULATIONS — RULEMAKING AUTHORITY — SUNSET PROVISION. — 1.

As used in this section, the following terms shall mean:

- (1) "CASA", an entity which receives funding from the court appointed special advocate fund established under section 476.777, RSMo;
 - (2) "Child advocacy centers", the regional child assessment centers listed in subsection 2 of section 210.001, RSMo;
 - (3) "Contribution", amount of donation to qualified agency;
 - (4) "Crisis care", temporary care for children whose age ranges from birth through seventeen years of age whose parents or guardian are experiencing an unexpected and unstable or serious condition that requires immediate action resulting in short term care, usually three to five continuous, uninterrupted days, for children who may be at risk for child abuse, neglect, or in an emergency situation;
-

(5) "Department", the department of revenue;
(6) "Director", the director of the department of revenue;
(7) "Qualified agency", CASA, child advocacy centers, or a crisis care center;
(8) "Tax liability", the tax due under chapter 143, RSMo, other than taxes withheld under sections 143.191 to 143.265, RSMo.

2. Any person residing in this state who legally adopts a special needs child on or after January 1, 1988, and before January 1, 2000, shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child adopted that may be applied to taxes due under chapter 143, RSMo. Any business entity providing funds to an employee to enable that employee to legally adopt a special needs child shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child adopted that may be applied to taxes due under such business entity's state tax liability, except that only one ten thousand dollar credit is available for each special needs child that is adopted.

[2.] 3. Any person residing in this state who proceeds in good faith with the adoption of a special needs child on or after January 1, 2000, shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child that may be applied to taxes due under chapter 143, RSMo; provided, however, that beginning on or after July 1, 2004, [a minimum of fifty percent] **two million dollars** of the tax credits allowed shall be allocated for the adoption of special needs children who are residents or wards of residents of this state at the time the adoption is initiated. Any business entity providing funds to an employee to enable that employee to proceed in good faith with the adoption of a special needs child shall be eligible to receive a tax credit of up to ten thousand dollars for nonrecurring adoption expenses for each child that may be applied to taxes due under such business entity's state tax liability, except that only one ten thousand dollar credit is available for each special needs child that is adopted.

[3.] 4. Individuals and business entities may claim a tax credit for their total nonrecurring adoption expenses in each year that the expenses are incurred. A claim for fifty percent of the credit shall be allowed when the child is placed in the home. A claim for the remaining fifty percent shall be allowed when the adoption is final. The total of these tax credits shall not exceed the maximum limit of ten thousand dollars per child. The cumulative amount of tax credits which may be claimed by taxpayers claiming the credit for nonrecurring adoption expenses in any one fiscal year prior to July 1, 2004, shall not exceed two million dollars [and shall not exceed]. **The cumulative amount of tax credits that may be claimed by taxpayers claiming the credit for nonrecurring adoption expenses shall not be less than four million dollars but may be increased by appropriation in any one fiscal year beginning on or after July 1, 2004; provided, however, that [in the first ninety days] by December thirty-first following each July first, if less than two million dollars in credits have been issued for adoption of special needs children who are not residents or wards of residents of this state at the time the adoption is initiated, the remaining amount of the [four million dollar] cap shall be available for the adoption of special needs children who are residents or wards of residents of this state at the time the adoption is initiated. For all fiscal years beginning on or after July 1, 2006, applications to claim the adoption tax credit for special needs children who are residents or wards of residents of this state at the time the adoption is initiated shall be filed between July first and April fifteenth of each fiscal year. For all fiscal years beginning on or after July 1, 2006, applications to claim the adoption tax credit for special needs children who are not residents or wards of residents of this state at the time the adoption is initiated shall be filed between July first and December thirty-first of each fiscal year.**

[4.] 5. Notwithstanding any provision of law to the contrary, any individual or business entity may assign, transfer or sell tax credits allowed in this section. Any sale of tax credits claimed pursuant to this section shall be at a discount rate of seventy-five percent or greater of the amount sold.

[5.] **6.** The director of revenue shall establish a procedure by which, for each fiscal year, the cumulative amount of tax credits authorized in this section is equally apportioned among all taxpayers within the two categories specified in subsection 2 of this section claiming the credit in that fiscal year. To the maximum extent possible, the director of revenue shall establish the procedure described in this subsection in such a manner as to ensure that taxpayers within each category can claim all the tax credits possible up to the cumulative amount of tax credits available for the fiscal year.

[6. The director of revenue shall submit to the general assembly, by January 1, 2005, and each succeeding year, information by income levels of those individual taxpayers who have qualified and claimed the credit authorized in this section, regardless of whether those taxpayers have assigned, transferred, or sold such credits. The information shall indicate the number of such taxpayers with federal adjusted gross income in the immediately preceding tax year of less than one hundred fifty thousand dollars, of one hundred fifty thousand dollars to and including one hundred ninety thousand dollars, and of more than one hundred ninety thousand dollars.]

7. For all tax years beginning on or after January 1, 2006, a tax credit may be claimed in an amount equal to up to fifty percent of a verified contribution to a qualified agency and shall be named the "children in crisis" tax credit. The minimum amount of any tax credit issued shall not be less than fifty dollars and shall be applied to taxes due under chapter 143, RSMo, excluding sections 143.191 to 143.265, RSMo. A contribution verification shall be issued to the taxpayer by the agency receiving the contribution. Such contribution verification shall include the taxpayer's name, Social Security number, amount of tax credit, amount of contribution, the name and address of the agency receiving the credit, and the date the contribution was made. The tax credit provided under this subsection shall be initially filed in the year in which the verified contribution is made.

8. The cumulative amount of the tax credits redeemed shall not exceed the unclaimed portion of the resident adoption category allocation as described in this section. The director of revenue shall determine the unclaimed portion available. The amount available shall be equally divided among the agencies meeting the definition of qualified agency to be used towards tax credits issued. In the event tax credits claimed under one agency do not total the allocated amount for that agency, the unused portion for that agency will be made available to the remaining agencies as needed. In the event the total amount of tax credits claimed exceeds the amount available, the amount redeemed shall be apportioned equally to all eligible taxpayers claiming the credit. After all children in crisis tax credits have been claimed, any remaining unclaimed portion of the reserved allocation for adoptions of special needs children who are residents or wards of residents of this state shall then be made available for adoption tax credit claims of special needs children who are not residents or wards of residents of this state at the time the adoption is initiated.

9. Prior to December thirty-first of each year, the entities listed under the definition of qualified agency shall apply to the department of social services in order to verify their qualified agency status. Upon a determination that the agency is eligible to be a qualified agency, the department of social services shall provide a letter of eligibility to such agency. No later than February first of each year, the department of social services shall provide a list of qualified agencies to the department of revenue. All tax credit applications to claim the children in crisis tax credit shall be filed between July first and April fifteenth of each fiscal year. A taxpayer shall apply for the children in crisis tax credit by attaching a copy of the contribution verification provided by a qualified agency to such taxpayer's income tax return.

10. The tax credits provided under this section shall be subject to the provisions of section 135.333.

11. (1) In the event a credit denial, due to lack of available funds, causes a balance due notice to be generated by the department of revenue, or any other redeeming agency, the taxpayer will not be held liable for any penalty or interest, provided the balance is paid, or approved payment arrangements have been made, within sixty days from the notice of denial.

(2) In the event the balance is not paid within sixty days from the notice of denial, the remaining balance shall be due and payable under the provisions of chapter 143, RSMo.

12. The director shall calculate the level of appropriation necessary to issue all tax credits for nonresident special needs adoptions applied for under this section and provide such calculation to the speaker of the house of representatives, the president pro tempore of the senate, and the director of the division of budget and planning in the office of administration by January thirty-first of each year.

13. The department may promulgate such rules or regulations as are necessary to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be invalid and void.

14. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

(1) The provisions of the new program authorized under subsections 7 to 12 of this section shall automatically sunset six years after the effective date of this section unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.

135.333. CREDIT EXCEEDING TAX DUE OR APPLIED FOR, NOT REFUNDED — MAY BE CARRIED FORWARD, TIME LIMIT — EFFECT OF ASSIGNMENT, TRANSFER OR SALE OF TAX CREDIT. — 1. Any amount of tax credit which exceeds the tax due **or which is applied for and otherwise eligible for issuance but not issued** shall not be refunded but may be carried over to any subsequent taxable year, not to exceed a total of five years for which a tax credit may be taken for each child adopted.

2. Tax credits that are assigned, transferred or sold as allowed in section 135.327 may be assigned, transferred or sold in their entirety notwithstanding the taxpayer's tax due.

Approved June 12, 2006

PROPOSED AMENDMENTS TO THE CONSTITUTION OF MISSOURI

HJR 55 [HJR 55]

EXPLANATION -- Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

Proposes a constitutional amendment prohibiting public officials from receiving any state pension if convicted of a felony, removed for misconduct, or impeached

JOINT RESOLUTION Submitting to the qualified voters of Missouri an amendment repealing section 3 of article XIII of the Constitution of Missouri, and adopting one new section in lieu thereof relating to compensation and discipline of public officials.

SECTION

- A. Enacting clause.
3. Compensation of state elected officials, general assembly members and judges to be set by Missouri Citizens' Commission on Compensation — members qualifications, terms, removal, vacancies, duties — procedure.
- B. Ballot title.

Be it resolved by the House of Representatives, the Senate concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2006, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article XIII of the Constitution of the state of Missouri:

SECTION A. ENACTING CLAUSE. — Section 3, article XIII, Constitution of Missouri, is repealed and one new section adopted in lieu thereof, to be known as section 3, to read as follows:

SECTION 3. COMPENSATION OF STATE ELECTED OFFICIALS, GENERAL ASSEMBLY MEMBERS AND JUDGES TO BE SET BY MISSOURI CITIZENS' COMMISSION ON COMPENSATION — MEMBERS QUALIFICATIONS, TERMS, REMOVAL, VACANCIES, DUTIES — PROCEDURE.. —

1. Other provisions of this constitution to the contrary notwithstanding, in order to ensure that the power to control the rate of compensation of elected officials of this state is retained and exercised by the tax paying citizens of the state, after the effective date of this section no elected state official, member of the general assembly, or judge, except municipal judges, shall receive compensation for the performance of their duties other than in the amount established for each office by the Missouri [citizen's] **citizens'** commission on compensation for elected officials established pursuant to the provisions of this section. The term "compensation" includes the salary rate established by law, milage allowances, per diem expense allowances.

2. There is created a commission to be known as the "Missouri [Citizen's] **Citizens'** Commission on Compensation for Elected Officials". The Commission shall be selected in the following manner:

(1) One member of the commission shall be selected at random by the secretary of state from each congressional district from among those registered voters eligible to vote at the time of selection. The secretary of state shall establish policies and procedures for conducting the selection at random. In making the selections, the secretary of state shall establish a selection

system to ensure that no more than five of the members shall be from the same political party. The policies shall include, but not be limited to, the method of notifying persons selected and for providing for a new selection if any person declines appointment to the commission;

(2) One member shall be a retired judge appointed by the judges of the supreme court, en banc;

(3) Twelve members shall be appointed by the governor, by and with the advice and consent of the senate. Not more than six of the appointees shall be members of the same political party. Of the persons appointed by the governor, one shall be a person who has had experience in the field of personnel management, one shall be a person who is representative of organized labor, one shall be a person representing small business in this state, one shall be the chief executive officer of a business doing an average gross annual business in excess of one million dollars, one shall be a person representing the health care industry, one shall be a person representing agriculture, two shall be persons over the age of sixty years, four shall be citizens of a county of the third classification, two of such citizens selected from a county of the third classification shall be selected from north of the Missouri River and two shall be selected from south of the Missouri River. No two persons selected to represent a county of the third classification shall be from the same county nor shall such persons be appointed from any county represented by an appointment to the commission by the secretary of state pursuant to subdivision (1) of this subsection.

3. All members of the commission shall be residents and registered voters of the state of Missouri. Except as otherwise specifically provided in this section, no state official, no member of the general assembly, no active judge of any court, no employee of the state or any of its institutions, boards, commissions, agencies or other entities, no elected or appointed official or employee of any political subdivision of the state, and no lobbyist as defined by law shall serve as a member of the commission. No immediate family member of any person ineligible for service on the commission under the provisions of this subsection may serve on the commission. The phrase "immediate family" means the parents, spouse, siblings, children, or dependant relative of the person whether or not living in the same household.

4. Members of the commission shall hold office for a term of four years.

No person may be appointed to the commission more than once. No member of the commission may be removed from office during the term for which appointed except for incapacity, incompetence, neglect of duty, malfeasance in office, or for a disqualifying change of residence. Any action for removal shall be brought by the attorney general at the request of the governor and shall be heard in the circuit court for the county in which the accused commission member resides.

5. The first appointments to the commission shall be made not later than February 1, 1996, and not later than February first every four years thereafter. All appointments shall be filed with the secretary of state, who shall call the first meeting of the commission not later than March 1, 1996, and shall preside at the first meeting until the commission is organized. The members of the commission shall organize and elect a chairperson and such other officers as the commission finds necessary.

6. Upon a vacancy on the commission, a successor shall be selected and appointed to fill the unexpired term in the same manner as the original appointment was made. The appointment to fill a vacancy shall be made within thirty days of the date the position becomes vacant.

7. Members of the commission shall receive no compensation for their services but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties from appropriations made for that purpose.

8. The commission shall, beginning in 1996, and every two years thereafter, review and study the relationship of compensation to the duties of all elected state officials, all members of the general assembly, and all judges, except municipal judges, and shall fix the compensation for each respective position. The commission shall file its initial schedule of compensation with the secretary of state and the revisor of statutes no later than the first day of December, 1996, and

by the first day of December each two years thereafter. The schedule of compensation shall become effective unless disapproved by concurrent resolution adopted by **a two-thirds majority vote** the general assembly before February 1 of the year following the filing of the schedule. Each schedule shall be published by the secretary of state as a part of the session laws of the general assembly and may also be published as a separate publication at the discretion of the secretary of state. The schedule shall also be published by the revisor of statutes as a part of the revised statutes of Missouri. The schedule shall[, subject to appropriations,] apply and represent the compensation for each affected person beginning on the first day of July following the filing of the schedule. In addition to any compensation established by the schedule, the general assembly may provide by appropriation for periodic uniform general cost-of-living increases or decreases for all employees of the state of Missouri and such cost-of-living increases or decreases may also be extended to those persons affected by the compensation schedule fixed by the commission. No cost-of-living increase or decrease granted to any person affected by the schedule shall exceed the uniform general increase or decrease provided for all other state employees by the general assembly.

9. Prior to the filing of any compensation schedule, the commission shall hold no less than four public hearings on such schedule, at different geographical locations within the state, within the four months immediately preceding the filing of the schedule. All meetings, actions, hearings, and business of the commission shall be open to the public, and all records of the commission shall be available for public inspection.

10. Until the first day of July next after the filing of the first schedule by the commission, compensation of the persons affected by this section shall be that in effect on the effective date of this amendment.

11. Schedules filed by the commission shall be subject to referendum upon petition of the voters of this state in the same manner and under the same conditions as a bill enacted by the general assembly.

12. Beginning January 1, 2007, any public official subject to this provision who is convicted in any court of a felony which occurred while in office or who has been removed from office for misconduct or following impeachment shall be disqualified from receiving any pension from the state of Missouri.

13. No compensation schedule filed by the commission after the effective date of this subsection shall take effect for members of the general assembly until January 1, 2009.

SECTION B. BALLOT TITLE. — Pursuant to Chapter 116, RSMo, and other applicable constitutional provisions and laws of this state allowing the General Assembly to adopt ballot language for the submission of a Joint Resolution for submission to the voters of this state, the official ballot title of the amendment proposed in Section A of this Joint Resolution shall be as follows:

"Shall Article XIII, Section 3 of the Constitution be amended to require that legislators, statewide elected officials, and judges forfeit state pensions upon felony conviction, removal from office following impeachment or for misconduct, and to require that compensation for such persons be set by a citizens' commission subject to voter referendum?"

SJR 26 [SJR 26]

EXPLANATION -- Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Exempts property owned by veterans' organizations from taxation

JOINT RESOLUTION Submitting to the qualified voters of Missouri, an amendment repealing section 6 of article X of the Constitution of Missouri, and adopting one new section in lieu thereof relating to taxation of veterans' organizations.

SECTION

- A. Enacting clause.
- 6. Property exempt from taxation.

Be it resolved by the Senate, the House of Representatives concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2006, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article X of the Constitution of the state of Missouri:

SECTION A. ENACTING CLAUSE. — Section 6, article X, Constitution of Missouri, is repealed and one new section adopted in lieu thereof, to be known as section 6, to read as follows:

SECTION 6. PROPERTY EXEMPT FROM TAXATION. — 1. All property, real and personal, of the state, counties and other political subdivisions, and nonprofit cemeteries, shall be exempt from taxation; all personal property held as industrial inventories, including raw materials, work in progress and finished work on hand, by manufacturers and refiners, and all personal property held as goods, wares, merchandise, stock in trade or inventory for resale by distributors, wholesalers, or retail merchants or establishments shall be exempt from taxation; and all property, real and personal, not held for private or corporate profit and used exclusively for religious worship, for schools and colleges, for purposes purely charitable, [or] for agricultural and horticultural societies, **or for veterans' organizations** may be exempted from taxation by general law. In addition to the above, household goods, furniture, wearing apparel and articles of personal use and adornment owned and used by a person in his home or dwelling place may be exempt from taxation by general law but any such law may provide for approximate restitution to the respective political subdivisions of revenues lost by reason of the exemption. All laws exempting from taxation property other than the property enumerated in this article, shall be void. The provisions of this section exempting certain personal property of manufacturers, refiners, distributors, wholesalers, and retail merchants and establishments from taxation shall become effective, unless otherwise provided by law, in each county on January 1 of the year in which that county completes its first general reassessment as defined by law.

2. All revenues lost because of the exemption of certain personal property of manufacturers, refiners, distributors, wholesalers, and retail merchants and establishments shall be replaced to each taxing authority within a county from a countywide tax hereby imposed on all property in subclass 3 of class 1 in each county. For the year in which the exemption becomes effective, the county clerk shall calculate the total revenue lost by all taxing authorities in the county and extend upon all property in subclass 3 of class 1 within the county, a tax at the rate necessary to produce that amount. The rate of tax levied in each county according to this subsection shall not be increased above the rate first imposed and will stand levied at that rate unless later reduced according to the provisions of subsection 3. The county collector shall disburse the proceeds according to the revenue lost by each taxing authority because of the

exemption of such property in that county. Restitution of the revenues lost by any taxing district contained in more than one county shall be from the several counties according to the revenue lost because of the exemption of property in each county. Each year after the first year the replacement tax is imposed, the amount distributed to each taxing authority in a county shall be increased or decreased by an amount equal to the amount resulting from the change in that district's total assessed value of property in subclass 3 of class 1 at the countywide replacement tax rate. In order to implement the provisions of this subsection, the limits set in section 11(b) of this article may be exceeded, without voter approval, if necessary to allow each county listed in section 11(b) to comply with this subsection.

3. Any increase in the tax rate imposed pursuant to subsection 2 of this section shall be decreased if such decrease is approved by a majority of the voters of the county voting on such decrease. A decrease in the increased tax rate imposed under subsection 2 of this section may be submitted to the voters of a county by the governing body thereof upon its own order, ordinance, or resolution and shall be submitted upon the petition of at least eight percent of the qualified voters who voted in the immediately preceding gubernatorial election.

4. As used in this section, the terms "revenues lost" and "lost revenues" shall mean that revenue which each taxing authority received from the imposition of a tangible personal property tax on all personal property held as industrial inventories, including raw materials, work in progress and finished work on hand, by manufacturers and refiners, and all personal property held as goods, wares, merchandise, stock in trade or inventory for resale by distributors, wholesalers, or retail merchants or establishments in the last full tax year immediately preceding the effective date of the exemption from taxation granted for such property under subsection 1 of this section, and which was no longer received after such exemption became effective.

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HOUSE CONCURRENT RESOLUTION NO. 1 [HCR 1]

BE IT RESOLVED by the House of Representatives of the Ninety-third General Assembly, Second Regular Session of the State of Missouri, the Senate concurring therein, that the House of Representatives and the Senate convene in Joint Session in the Hall of the House of Representatives at 7:00 p.m., Wednesday, January 11, 2006, to receive a message from His Excellency, the Honorable Matt Blunt, Governor of the State of Missouri; and

BE IT FURTHER RESOLVED that a committee of ten (10) from the House be appointed by the Speaker to act with a committee of ten (10) from the Senate, appointed by the President Pro Tem, to wait upon the Governor of the State of Missouri and inform His Excellency that the House of Representatives and Senate of the Ninety-third General Assembly, Second Regular Session, are now organized and ready for business and to receive any message or communication that His Excellency may desire to submit, and that the Chief Clerk of the House of Representatives be directed to inform the Senate of the adoption of this resolution.

HOUSE CONCURRENT RESOLUTION NO. 2 [HCR 2]

BE IT RESOLVED by the House of Representatives of the Ninety-third General Assembly, Second Regular Session of the State of Missouri, the Senate concurring therein, that the House of Representatives and the Senate convene in Joint Session in the Hall of the House of Representatives at 10:30 a.m., Wednesday, January 25, 2006, to receive a message from His Honor Chief Justice Michael A. Wolff, the Chief Justice of the Supreme Court of the State of Missouri; and

BE IT FURTHER RESOLVED, that a committee of ten (10) from the House be appointed by the Speaker to act with a committee of ten (10) from the Senate, appointed by the President Pro Tem, to wait upon the Chief Justice of the Supreme Court of the State of Missouri and inform His Honor that the House of Representatives and the Senate of the Ninety-third General Assembly, Second Regular Session, are now organized and ready for business and to receive any message or communication that His Honor may desire to submit, and that the Chief Clerk of the House of Representatives be directed to inform the Senate of the adoption of this resolution.

HOUSE CONCURRENT RESOLUTION NO. 3 [HCR 3]

BE IT RESOLVED by the members of the House of Representatives of the Ninety-third General Assembly, Second Regular Session of the State of Missouri, the Senate concurring therein, that the House of Representatives and the Senate convene in Joint Session in the Hall of the House of Representatives at 10:30 a.m., Tuesday, February 7, 2006, to receive a message from Pete K. Rahn, Director of the Missouri Department of Transportation; and that the Chief Clerk of the House of Representatives be directed to inform the Senate of the adoption of this resolution.

HOUSE CONCURRENT RESOLUTION NO. 12 [HCR 12]

Relating to the designation of hepatitis C awareness day in Missouri.

Be it enacted by the General Assembly of the state of Missouri, as follows:

WHEREAS, five million Americans have been infected with the Hepatitis C virus (HCV) according to the Centers for Disease Control and Prevention, which contributes to approximately 8,000 to 10,000 deaths each year; and

WHEREAS, it is estimated that 130,000 Missourians are infected with HCV. Such number does not include incarcerated persons, homeless persons, hospitalized persons, active duty military personnel, nursing home residents, and illegal immigrants; and

WHEREAS, the Centers for Disease Control and Prevention has reported that HCV is associated with end stage liver disease and is the most frequent indication for liver transplantation among adults in the United States; and

WHEREAS, HCV is spread five times more often than HIV, with many persons infected with HCV unaware because HCV is asymptomatic until advanced liver damage develops; and

WHEREAS, each year 1% to 4% of persons infected with HCV will develop liver cancer. As the only cancer on the rise, the incidence of liver cancer has more than doubled and is expected to more than double again in the next decade; and

WHEREAS, the HCV epidemic is expected to result in 3.1 million years of life lost by 2019 and, if left unchecked, the estimated costs to the United States to treat HCV will exceed \$85 billion for the years 2010 to 2019; and

WHEREAS, awareness of testing and counseling is critical to halting the spread of blood-born pathogens:

NOW, THEREFORE, BE IT RESOLVED that the members of the House of Representatives of the Ninety-third General Assembly, Second Regular Session, the Senate concurring therein, hereby designate the tenth day of May each year as "Hepatitis C Awareness Day" in Missouri and recommend to the people of Missouri that the day be appropriately observed through activities which will increase Hepatitis C awareness, education, tolerance, and understanding; and

BE IT FURTHER RESOLVED that this resolution be sent to the Governor for his approval or rejection pursuant to the Missouri Constitution.

Approved June 29, 2006

SENATE CONCURRENT RESOLUTION NO. 30 [SCR 30]

WHEREAS, the Lake of the Ozarks is one of the most popular lakes in the Midwest, largely because of the many opportunities for public access; and

WHEREAS, in addition to the public access points, individuals and businesses have been able to obtain dock permits, allowing the lake to be enjoyed by residents and visitors alike; and

WHEREAS, AmerenUE is responsible for shoreline management at the Lake of the Ozarks, as specified in Article 41 of its license from the Federal Energy Regulatory Commission to operate the Osage Power Plant; and

WHEREAS, on August 19, 2005, AmerenUE filed a shoreline management plan with the Federal Energy Regulatory Commission, a portion of which establishes impact minimization zones (IMZs) that classify and restrict certain areas of the shoreline for future development; and

WHEREAS, the goal of the shoreline management plan to balance the recreational, environmental, and economic aspects of the lake is an honorable goal; and

WHEREAS, the impact minimization zones as proposed in the current plan will have a detrimental effect on the economy of the lake area, leading to reduced recreational opportunities for lake residents and visitors; and

WHEREAS, restrictions on dock permits could lower the value of lakefront property, decrease traffic at local businesses that rely on the lake for their livelihood, and result in an overall negative impact on the local and state economy:

NOW THEREFORE BE IT RESOLVED that the members of the Missouri Senate, Ninety-Third General Assembly, Second Regular Session, the House of Representatives concurring therein, hereby support the formation of a broad-based impact minimization zone task force comprised of state, county, and municipal officials; state and federal resource agencies; chambers of commerce; and members of the development, recreation, and residential communities to work on a more balanced plan that incorporates the recreational, environmental, and aesthetic values of the Lake of the Ozarks and review dock policies as they relate to impact minimization zone plans; and

BE IT FURTHER RESOLVED that the members of the Missouri Senate, Ninety-Third General Assembly, Second Regular Session, the House of Representatives concurring therein, urge the Federal Energy Regulatory Commission to delay authorization of the plan in those portions dealing with impact minimization zones until the new impact minimization zone task force can issue a revised plan that will provide a more balanced plan for the use of the Lake of the Ozarks; and

BE IT FURTHER RESOLVED that the Secretary of the Missouri Senate be instructed to prepare properly inscribed copies of this resolution for the president and board of directors of AmerenUE, the Federal Energy Regulatory Commission, and the members of the Missouri Congressional delegation.

BE IT RESOLVED by the Senate, the House of Representatives concurring therein, that the President Pro Tem of the Senate and the Speaker of the House appoint a committee of thirty-six members, one-half from the Senate and one-half from the House to cooperate in making all necessary plans and arrangements for the participation of the General Assembly in the inauguration of the executive officials of the State of Missouri on January 10, 2005; and

BE IT FURTHER RESOLVED that the joint committee be authorized to cooperate with any other committees, officials or persons planning and executing the inaugural ceremonies keeping with the traditions of the great State of Missouri.

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ADMINISTRATION, OFFICE OF

- SB 612 Authorizes the conveyance of property owned by the state in St. Francois County to the Farmington American Legion Post 416
- SB 870 Transfers responsibility for existing appropriation payments from the Office of Administration to other state agencies
- SB 1003 Authorizes the Governor to convey state property
- SB 1122 Allows certain state universities to convey or transfer, except in fee simple, the title or interest in real property

ADMINISTRATIVE LAW

- SB 1146 Modifies the process for review of an administrative agency's decisions

ADMINISTRATIVE RULES

- SB 1146 Modifies the process for review of an administrative agency's decisions

AGRICULTURE AND ANIMALS

- SB 1008 Creates the "Governor's Advisory Council on Agricultural Science and Technology"
- HB 1739 Allows a vermiculture operation, which is a business raising earthworms under a controlled environment, to receive certain agricultural loans

AGRICULTURE DEPARTMENT

- SB 1020 Requires anyone who manufactures, installs, or repairs fuel storage tanks or piping for such tanks to maintain evidence of financial responsibility to cover the costs of corrective action after a fuel release
- HB 1270 Requires that all gasoline sold as of January 1, 2008, in Missouri be fuel ethanol-blended gasoline
- HB 1739 Allows a vermiculture operation, which is a business raising earthworms under a controlled environment, to receive certain agricultural loans

ALCOHOL

- SB 725 Alters provisions regarding alcoholic beverages

AMBULANCES AND AMBULANCE DISTRICTS

- SB 893 Modifies provisions relating to taxes for emergency services and fire protection
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APPROPRIATIONS

- SB 870 Transfers responsibility for existing appropriation payments from the Office of Administration to other state agencies
- HB 1001 To appropriate money to the Board of Fund Commissioners for the cost of issuing, processing and defeasing and to transfer money among certain funds.
- HB 1002 To appropriate money for the expenses, grants, refunds, and distributions of the State Board of Education and the Department of Elementary and Secondary Education, and the several divisions.
- HB 1003 To appropriate money for the expenses, grants, refunds, and distributions of the Department of Higher Education, the several divisions, programs, and institutions of higher education.
- HB 1004 To appropriate money for the expenses, grants, refunds, and distributions of the Department of Revenue, Department of Transportation, the several divisions and programs.
- HB 1005 To appropriate money for the expenses, grants, refunds, and distributions of the Office of Administration, the Department of Transportation, the Department of Public Safety, and the Chief Executive's Office, and the several divisions.
- HB 1006 To appropriate money for the expenses, grants, refunds, and distributions of the Department of Agriculture, Department of Natural Resources, Department of Conservation, and the several divisions.
- HB 1007 To appropriate money for the expenses, grants, refunds, and distributions of the Department of Economic Development, Department of Insurance, and Department of Labor and Industrial Relations.
- HB 1008 To appropriate money for the expenses, grants, refunds, and distributions of the Department of Public Safety and the several divisions and programs.
- HB 1009 To appropriate money for the expenses, grants, refunds, and distributions of the Department of Corrections and the several divisions and programs.
- HB 1010 To appropriate money for the expenses, grants, refunds, and distributions of the Department of Mental Health, the Board of Public Buildings, the Department of Health and Senior Services.
- HB 1011 To appropriate money for the expenses, grants, and distributions of the Department of Social Services and the several divisions and programs.
- HB 1012 To appropriate money for the expenses, grants, refunds, and distributions of the Chief Executive's Office and Mansion, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, etc.
- HB 1013 To appropriate money for real property leases, related services, utilities, systems furniture, and structural modifications for the several departments of state government.
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- HB 1014 To appropriate money for supplemental purposes for the several department and offices of state government, and for the payment of various claims for refunds.
- HB 1015 To appropriate money for supplemental purposes for the Department of Social Services, and to transfer money among certain funds, from the funds designated for the fiscal period ending June 30, 2006.
- HB 1021 Relating to appropriations for certain state agencies.

ATTORNEYS

- HB 1858 Authorizes prosecuting and circuit attorneys to dismiss a complaint, information, or indictment without the consent of the court

BANKS AND FINANCIAL INSTITUTIONS

- SB 641 Requires all contributions to the Missouri Higher Education Savings Program be held for twelve months
- SB 892 Modifies law relating to financial institutions

BOARDS, COMMISSIONS, COMMITTEES, COUNCILS

- SB 559 Considers any municipality, governmental unit, or public corporation created under the laws of any state or the United States a person
- SB 650 Specifies terms of office and eligibility criteria for the governing board of Missouri State University
- SB 677 Removes references to the Committee on Radiation Control from Chapter 192, RSMo
- SB 718 Modifies the authority of the Development Finance Board to grant loans
- SB 749 Modifies minimum experience requirements for interior designer registration
- SB 756 Modifies requirements for licensing and registration of certain professionals
- SB 900 Modifies provisions on the Missouri Commission for the Deaf and Hard of Hearing Fund
- SB 1002 Allows the imposition of an additional fee for drainage districts
- SB 1008 Creates the "Governor's Advisory Council on Agricultural Science and Technology"
- SB 1016 Requires county commissions to set tax rates by September 20
- SB 1017 Makes the State Milk Board the official rating agency for the enforcement of milk production standards
- SB 1026 Authorizes the Lieutenant Governor to administer certain veterans' programs and funds
- SB 1146 Modifies the process for review of an administrative agency's decisions
- SB 1155 Modifies provisions on the technical advisory committee on the quality of patient care and nursing practices
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- SB 1189 Creates the "Holocaust Education and Awareness Commission"
- HB 1515 Requires physicians to report to provide information regarding collaborative practice arrangements
- HB 1759 Modifies requirements for licensure of athletic trainers

BOATS AND WATERCRAFT

- SB 778 Requires proof of payment of personal property taxes on certain vessels, raises vessel fees and creates the "Missouri State Water Patrol Fund"

BONDS - GENERAL OBLIGATION AND REVENUE

- SB 645 Modifies the Missouri Business Use Incentive for Large-Scale Development Act
- SB 718 Modifies the authority of the Development Finance Board to grant loans
- SB 936 Allows county library boards to issue bonds for up to 5% of the value of property within the district instead of 1%
- HB 1149 Pertains to the regulation of water

BUSINESS AND COMMERCE

- SB 645 Modifies the Missouri Business Use Incentive for Large-Scale Development Act
- SB 749 Modifies minimum experience requirements for interior designer registration
- SB 845 Modifies fees and reinstatement processes in the event of corporate administrative dissolution
- SB 934 Creates a grace period for barber shop licensure when the establishment changes ownership or location
- SB 1216 Modifies the law relating to travel clubs
- HB 1559 Modifies provisions on donation of food
- HB 1715 Modifies the law regarding the internal operations of corporations
- HB 1827 Modifies law with respect to how group health insurance policies are issued and administered for certain types of associations

CAMPAIGN FINANCE

- HB 1900 Modifies law relating to campaign finance and lobbyist reporting requirements

CAPITAL IMPROVEMENTS

- SB 561 Limits the amount of revenue expenditures from gaming boat admission fees
-

CEMETERIES

- SB 578 Prohibits protest activities during funeral services
HB 1026 Prohibits protest activities during funeral services

CHARITIES

- HB 1552 Allows homeless veterans to use addresses of certain charitable organizations on applications for state or federal assistance
HB 1559 Modifies provisions on donation of food
HB 1687 Provides for unused drugs to be donated to charities for distribution outside the state or abroad

CHILDREN AND MINORS

- SB 618 Provides that electronic access cards may be issued to custodial parents for disbursement of child support payments
SB 834 Alters various provisions of the state's special education policy
SB 894 Renders multiple alterations to the state's education policy
SB 912 Establishes a virtual school program
SB 1084 Extends the sunset date for the Healthcare for Uninsured Children Program and non-Medicaid eligible personal care services
SB 1197 Allows sixteen-year olds to donate blood with parental permission
SB 1229 Creates a tax credit for children in crisis
HB 1053 Allows victims of certain offenses against the family access to official court records in certain circumstances
HB 1180 Exempts from certain administrative penalties school districts that demonstrate their students have to cross highways and arterials under specified conditions
HB 1182 Allows persons with custodial rights to petition the juvenile court to extend jurisdiction over a child until he or she reaches age 18
HB 1245 Authorizes school nurses to keep on hand and administer prefilled syringes of epinephrine to any student who is having an anaphylactic reaction
HB 1511 Requires the Department of Elementary and Secondary Education to develop standards for high-quality early childhood education
HB 1732 Broadens and alters the criteria for permissible self-administered medications in public schools

CITIES, TOWNS AND VILLAGES

- SB 561 Limits the amount of revenue expenditures from gaming boat admission fees
SB 645 Modifies the Missouri Business Use Incentive for Large-Scale Development Act
-

- SB 751 Allows the City of Corder to sell property purchased from the school district for any purpose after twenty-five years
- SB 809 Provides municipalities the option of adopting the zoning regulations of the county in lieu of their own
- SB 863 Modifies the definition of "volunteer fire protection association"
- SB 919 Repeals the statute permitting the city council of a third-class city to prohibit the carrying of concealed weapons
- SB 1056 Modifies the method of how community improvement districts may impose sales taxes
- SB 1094 Allows Springfield to dissolve a special business district
- SB 1177 Allows a local registrar to be an employee of either a county or city health agency
- SB 1207 Allows New Madrid County to impose an additional sales tax, which proceeds shall be shared among the county and the cities, towns and villages within the county
- HB 977 Allows fourth-class cities to establish by ordinance a citywide vote for the election of aldermen
- HB 1707 Allows local registrars to be an employee of either a county or city health agency and gives the Jackson County Recorder of Deeds more discretion regarding where documents are recorded

CIVIL PROCEDURE

- SB 1045 Provides that the statute of limitations for recovery of lands does not extend to lands held by public utilities
- HB 1343 Repeals provisions of law that required the City of Canton to provide resources and space for a circuit court in Lewis County

CIVIL RIGHTS

- SB 578 Prohibits protest activities during funeral services
- HB 1026 Prohibits protest activities during funeral services

COMPACTS

- SB 825 Creates the "Kansas and Missouri Regional Investment District Compact" to promote public transit projects within the Kansas City metropolitan area

CONSTITUTIONAL AMENDMENTS

- SJR 26 Exempts property owned by veterans' organizations from taxation
- HJR 55 Proposes a constitutional amendment prohibiting public officials convicted of a felony or removed for misconduct from receiving any state
-

pension and modifies the veto power of the General Assembly over salary recommendations

CONSUMER PROTECTION

SB 892 Modifies law relating to financial institutions

CONTRACTS AND CONTRACTORS

SB 1197 Allows sixteen-year olds to donate blood with parental permission

CORPORATIONS

SB 845 Modifies fees and reinstatement processes in the event of corporate administrative dissolution

SB 1208 Modifies law allowing corporations to amend their articles of incorporation

HB 1427 Modifies fees and reinstatement processes in the event of corporate administrative dissolution

HB 1715 Modifies the law regarding the internal operations of corporations

CORRECTIONS DEPARTMENT

SB 870 Transfers responsibility for existing appropriation payments from the Office of Administration to other state agencies

COSMETOLOGY

SB 934 Creates a grace period for barber shop licensure when the establishment changes ownership or location

COUNTIES

SB 936 Allows county library boards to issue bonds for up to 5% of the value of property within the district instead of 1%

SB 1207 Allows New Madrid County to impose an additional sales tax, which proceeds shall be shared among the county and the cities, towns and villages within the county

HB 1222 Allows coroners or medical examiners to appoint special deputy coroners or medical examiners in emergencies

HB 1688 Prohibits certain sales tax revenue from inclusion as economic activity tax revenue for TIF projects

HB 1703 Provides that political subdivisions forming a business entity for the purpose of providing liability insurance are not to be considered an insurance company

COUNTY GOVERNMENT

- SB 809 Provides municipalities the option of adopting the zoning regulations of the county in lieu of their own
- SB 825 Creates the "Kansas and Missouri Regional Investment District Compact" to promote public transit projects within the Kansas City metropolitan area
- SB 1177 Allows a local registrar to be an employee of either a county or city health agency
- HB 1707 Allows local registrars to be an employee of either a county or city health agency and gives the Jackson County Recorder of Deeds more discretion regarding where documents are recorded

COUNTY OFFICIALS

- SB 932 Modifies laws relating to county officials
- HB 1222 Allows coroners or medical examiners to appoint special deputy coroners or medical examiners in emergencies
- HB 1707 Allows local registrars to be an employee of either a county or city health agency and gives the Jackson County Recorder of Deeds more discretion regarding where documents are recorded

COURTS

- SB 1045 Provides that the statute of limitations for recovery of lands does not extend to lands held by public utilities
- HB 1053 Allows victims of certain offenses against the family access to official court records in certain circumstances
- HB 1182 Allows persons with custodial rights to petition the juvenile court to extend jurisdiction over a child until he or she reaches age eighteen
- HB 1343 Repeals provisions of law that required the City of Canton to provide resources and space for a circuit court in Lewis County
- HB 1857 Specifies when a prosecution is commenced for a misdemeanor and a felony

COURTS, JUVENILE

- HB 1182 Allows persons with custodial rights to petition the juvenile court to extend jurisdiction over a child until he or she reaches age 18

CREDIT AND BANKRUPTCY

- SB 892 Modifies law relating to financial institutions

CRIMES AND PUNISHMENT

- SB 578 Prohibits protest activities during funeral services
- SB 872 Enacts various provisions relating to the safe operation of motor vehicles to ensure the safety of highway workers, emergency workers and other motorists
- SB 1023 Modifies the laws relating to DNA Profiling Analysis and resulting restitution
- HB 1026 Prohibits protest activities during funeral services
- HB 1053 Allows victims of certain offenses against the family access to official court records in certain circumstances
- HB 1698 Modifies laws relating to sexual offenders
- HB 1857 Specifies when a prosecution is commenced for a misdemeanor and a felony
- HB 1858 Authorizes prosecuting and circuit attorneys to dismiss a complaint, information, or indictment without the consent of the court

CRIMINAL PROCEDURE

- SB 785 Allows any jailer to serve an arrest warrant on a person who is already an inmate in the custody of the jailer
- SB 1023 Modifies the laws relating to DNA Profiling Analysis and resulting restitution
- HB 1053 Allows victims of certain offenses against the family access to official court records in certain circumstances
- HB 1204 Allows any jailer to serve an arrest warrant on a person who is already an inmate in the custody of the jailer
- HB 1698 Modifies laws relating to sexual offenders
- HB 1857 Specifies when a prosecution is commenced for a misdemeanor and a felony
- HB 1858 Authorizes prosecuting and circuit attorneys to dismiss a complaint, information, or indictment without the consent of the court

DENTISTS

- SB 828 Repeals the sunset provision for dental hygienists

DISABILITIES

- SB 834 Alters various provisions of the state's special education policy
- SB 900 Modifies provisions on the Missouri Commission for the Deaf and Hard of Hearing Fund
- HB 1511 Requires the Department of Elementary and Secondary Education to develop standards for high-quality early childhood education
- HB 1762 Exempts persons who present proof of permanent disability from the United States Veterans Administration from the four-year certification

requirement for renewal of disabled license plates and allows advanced practice registered nurses to issue statements to obtain disabled

DRAINAGE AND LEVEE DISTRICTS

SB 1002 Allows the imposition of an additional fee for drainage districts

DRUGS AND CONTROLLED SUBSTANCES

- HB 1245 Authorizes school nurses to keep on hand and administer prefilled syringes of epinephrine to any student who is having an anaphylactic reaction
- HB 1687 Provides for unused drugs to be donated to charities for distribution outside the state or abroad
- HB 1732 Broadens and alters the criteria for permissible self-administered medications in public schools

EASEMENTS AND CONVEYANCES

- SB 612 Authorizes the conveyance of property owned by the state in St. Francois County to the Farmington American Legion Post 416
- SB 881 Authorizes the Governor to convey state property to St. Francois County
- SB 1003 Authorizes the Governor to convey state property
- SB 1122 Allows certain state universities to convey or transfer, except in fee simple, the title or interest in real property
- HB 1944 Modifies the laws relating to eminent domain

ECONOMIC DEVELOPMENT

- SB 645 Modifies the Missouri Business Use Incentive for Large-Scale Development Act
- SB 1094 Allows Springfield to dissolve a special business district
- HB 1688 Prohibits certain sales tax revenue from inclusion as economic activity tax revenue for TIF projects

ECONOMIC DEVELOPMENT DEPARTMENT

- SB 580 Requires collaboration between certain departments in order to achieve a more efficient and effective educational system
- HB 1234 Revises the nursing student repayment loan program
- HB 1339 Modifies licensing requirements for real estate brokers
- HB 1494 Modifies licensure requirements for professional engineers and land surveyors
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- HB 1515 Requires physicians to report to provide information regarding collaborative practice arrangements
- HB 1759 Modifies requirements for licensure of athletic trainers

EDUCATION, ELEMENTARY AND SECONDARY

- SB 580 Requires collaboration between certain departments in order to achieve a more efficient and effective educational system
- SB 751 Allows the City of Corder to sell property purchased from the school district for any purpose after twenty-five years
- SB 769 Permits school districts meeting certain criteria to make a one-time additional fund transfer and to reduce their school terms
- SB 834 Alters various provisions of the state's special education policy
- SB 894 Renders multiple alterations to the state's education policy
- SB 912 Establishes a virtual school program
- HB 1180 Exempts from certain administrative penalties school districts that demonstrate their students have to cross highways and arterials under specified conditions
- HB 1182 Allows persons with custodial rights to petition the juvenile court to extend jurisdiction over a child until he or she reaches age eighteen
- HB 1245 Authorizes school nurses to keep on hand and administer prefilled syringes of epinephrine to any student who is having an anaphylactic reaction
- HB 1449 A substitute or part-time teacher employed within one year of the teacher's retirement shall not be subject to an additional background check
- HB 1511 Requires the Department of Elementary and Secondary Education to develop standards for high-quality early childhood education
- HB 1732 Broadens and alters the criteria for permissible self-administered medications in public schools

EDUCATION, HIGHER

- SB 580 Requires collaboration between certain departments in order to achieve a more efficient and effective educational system
- SB 650 Specifies terms of office and eligibility criteria for the governing board of Missouri State University
- SB 701 Modifies educational assistance benefits for Missouri National Guard members
- SB 725 Alters provisions regarding alcoholic beverages

ELDERLY

- SB 616 Prescribes requirements for assisted living facilities

- SB 630 Modifies eligibility requirements for the Homestead Preservation Tax Credit
SB 1117 Modifies provisions of the Missouri Rx Plan Advisory Commission

ELECTIONS

- SB 932 Modifies laws relating to county officials
SB 1014 Modifies law relating to election administration
HB 977 Allows fourth-class cities to establish by ordinance a citywide vote for the election of aldermen

ELEMENTARY AND SECONDARY EDUCATION DEPARTMENT

- SB 580 Requires collaboration between certain departments in order to achieve a more efficient and effective educational system
SB 894 Renders multiple alterations to the state's education policy
SB 912 Establishes a virtual school program
SB 1189 Creates the "Holocaust Education and Awareness Commission"
HB 1180 Exempts from certain administrative penalties school districts that demonstrate their students have to cross highways and arterials under specified conditions
HB 1245 Authorizes school nurses to keep on hand and administer prefilled syringes of epinephrine to any student who is having an anaphylactic reaction
HB 1511 Requires the Department of Elementary and Secondary Education to develop standards for high-quality early childhood education

EMERGENCIES

- SB 872 Enacts various provisions relating to the safe operation of motor vehicles to ensure the safety of highway workers, emergency workers and other motorists

EMINENT DOMAIN AND CONDEMNATION

- HB 1944 Modifies the laws relating to eminent domain

EMPLOYEES - EMPLOYERS

- SB 981 Allows a Highway Patrol member to accept other employment under a general order issued by the Superintendent
HB 1393 Allows the Superintendent of the State Highway Patrol to set the circumstances under which members of the patrol may be engaged in secondary employment
HB 1456 Modifies law regarding unemployment security
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- HB 1827 Modifies law with respect to how group health insurance policies are issued and administered for certain types of associations

EMPLOYMENT SECURITY

- HB 1456 Modifies law regarding unemployment security

ENGINEERS

- SB 819 Modifies licensure requirements for professional engineers and land surveyors
HB 1494 Modifies licensure requirements for professional engineers and land surveyors

ENTERTAINMENT, SPORTS AND AMUSEMENTS

- HB 1617 Adds to the circumstances where a landowner does not assume liability for injuries caused on his or her land
HB 1759 Modifies requirements for licensure of athletic trainers

ENVIRONMENTAL PROTECTION

- SB 583 Establishes a decentralized emission inspection program which utilizes on-board diagnostic testing on certain motor vehicles
SB 1020 Requires anyone who manufactures, installs, or repairs fuel storage tanks or piping for such tanks to maintain evidence of financial responsibility to cover the costs of corrective action after a fuel release
SB 1165 Extends the fees imposed under the water pollution statutes until December 31, 2009

FAMILY LAW

- HB 1182 Allows persons with custodial rights to petition the juvenile court to extend jurisdiction over a child until he or she reaches age 18

FAMILY SERVICES DIVISION

- SB 618 Provides that electronic access cards may be issued to custodial parents for disbursement of child support payments

FEES

- SB 756 Modifies requirements for licensing and registration of certain professionals
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- SB 778 Requires proof of payment of personal property taxes on certain vessels, raises vessel fees and creates the "Missouri State Water Patrol Fund"
- SB 845 Modifies fees and reinstatement processes in the event of corporate administrative dissolution
- SB 1002 Allows the imposition of an additional fee for drainage districts
- SB 1165 Extends the fees imposed under the water pollution statutes until December 31, 2009
- HB 1380 Creates the "Missouri Public-Private Partnerships Transportation Act"

FIRE PROTECTION

- SB 648 Replaces the term "lunatic asylum" with "mental health facility" in statute about fire escapes and stairs
- SB 863 Modifies the definition of "volunteer fire protection association"
- SB 893 Modifies provisions relating to taxes for emergency services and fire protection
- HB 1344 Modifies provisions regarding the Firemen's Retirement System of St. Louis
- HB 1509 Modifies the duties of the State Fire Marshal

FIREARMS AND FIREWORKS

- SB 919 Repeals the statute permitting the city council of a third-class city to prohibit the carrying of concealed weapons

FUNERALS AND FUNERAL DIRECTORS

- SB 578 Prohibits protest activities during funeral services
- HB 1026 Prohibits protest activities during funeral services

GAMBLING

- SB 561 Limits the amount of revenue expenditures from gaming boat admission fees

GENERAL ASSEMBLY

- SB 718 Modifies the authority of the Development Finance Board to grant loans
- HCR 12 Designates the tenth of May each year as "Hepatitis C Awareness Day" in Missouri.

GOVERNOR & LT. GOVERNOR

- SB 612 Authorizes the conveyance of property owned by the state in St. Francois County to the Farmington American Legion Post 416
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- SB 881 Authorizes the Governor to convey state property to St. Francois County
- SB 1003 Authorizes the Governor to convey state property
- SB 1026 Authorizes the Lieutenant Governor to administer certain veterans' programs and funds
- SB 1117 Modifies provisions of the Missouri Rx Plan Advisory Commission

HEALTH CARE

- SB 567 Modifies provisions relating to health insurance
- SB 765 Enacts provisions relating to emergency medical treatment
- SB 822 Extends FRA, Pharmacy Tax, Nursing Facility reimbursement allowance, and Medicaid managed care reimbursement allowance sunsets
- SB 980 Modifies the student loan program for nursing students
- SB 1057 Includes physical therapists in the definition of health practitioner for the purposes of liens
- SB 1117 Modifies provisions of the Missouri Rx Plan Advisory Commission
- SB 1155 Modifies provisions on the technical advisory committee on the quality of patient care and nursing practices
- HCR 12 Designates the tenth of May each year as "Hepatitis C Awareness Day" in Missouri.
- HB 1485 Creates a tax credit for contributions to centers providing social services
- HB 1601 Enacts provisions relating to emergency medical treatment
- HB 1827 Modifies law with respect to how group health insurance policies are issued and administered for certain types of associations

HEALTH CARE PROFESSIONALS

- SB 765 Enacts provisions relating to emergency medical treatment
- SB 980 Modifies the student loan program for nursing students
- SB 1057 Includes physical therapists in the definition of health practitioner for the purposes of liens
- HB 1601 Enacts provisions relating to emergency medical treatment
- HB 1687 Provides for unused drugs to be donated to charities for distribution outside the state or abroad
- HB 1762 Exempts persons who present proof of permanent disability from the United States Veterans Administration from the four-year certification requirement for renewal of disabled license plates and allows advanced practice registered nurses to issue statements to obtain disabled
- HB 1837 Modifies various provisions relating to malpractice insurance

HEALTH DEPARTMENT

- SB 616 Prescribes requirements for assisted living facilities

- SB 677 Removes references to the Committee on Radiation Control from Chapter 192, RSMo
- SB 1155 Modifies provisions on the technical advisory committee on the quality of patient care and nursing practices
- HB 1437 Modifies poison and radiation control provisions
- HB 1559 Modifies provisions on donation of food

HEALTH, PUBLIC

- SB 1117 Modifies provisions of the Missouri Rx Plan Advisory Commission
- SB 1155 Modifies provisions on the technical advisory committee on the quality of patient care and nursing practices
- SB 1177 Allows a local registrar to be an employee of either a county or city health agency
- SB 1197 Allows sixteen-year olds to donate blood with parental permission
- HCR 12 Designates the tenth of May each year as "Hepatitis C Awareness Day" in Missouri.
- HB 1437 Modifies poison and radiation control provisions
- HB 1440 Creates an income tax checkoff for donations for cervical cancer awareness and treatment
- HB 1559 Modifies provisions on donation of food
- HB 1707 Allows local registrars to be an employee of either a county or city health agency and gives the Jackson County Recorder of Deeds more discretion regarding where documents are recorded

HIGHER EDUCATION DEPARTMENT

- SB 580 Requires collaboration between certain departments in order to achieve a more efficient and effective educational system
- SB 641 Requires all contributions to the Missouri Higher Education Savings Program be held for twelve months
- SB 1122 Allows certain state universities to convey or transfer, except in fee simple, the title or interest in real property

HIGHWAY PATROL

- SB 583 Establishes a decentralized emission inspection program which utilizes on-board diagnostic testing on certain motor vehicles
- SB 667 Designates several portions of highways within Missouri after Missouri highway patrolmen
- SB 933 Transfers the duty of appointing railroad policemen from the Highway Patrol to the Director of the Department of Public Safety
- SB 981 Allows a Highway Patrol member to accept other employment under a general order issued by the Superintendent
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- HB 1393 Allows the Superintendent of the State Highway Patrol to set the circumstances under which members of the patrol may be engaged in secondary employment

HOLIDAYS

- HB 1256 Designates February 4th as the annual "Rosa Parks Day"

INSURANCE - GENERAL

- SB 837 Modifies the membership of various governing bodies that administer state insurance programs
- HB 1703 Provides that political subdivisions forming a business entity for the purpose of providing liability insurance are not to be considered an insurance company
- HB 1837 Modifies various provisions relating to malpractice insurance

INSURANCE - MEDICAL

- SB 567 Modifies provisions relating to health insurance
- HB 1703 Provides that political subdivisions forming a business entity for the purpose of providing liability insurance are not to be considered an insurance company
- HB 1827 Modifies law with respect to how group health insurance policies are issued and administered for certain types of associations

INSURANCE DEPARTMENT

- SB 837 Modifies the membership of various governing bodies that administer state insurance programs
- HB 1827 Modifies law with respect to how group health insurance policies are issued and administered for certain types of associations
- HB 1837 Modifies various provisions relating to malpractice insurance

JACKSON COUNTY

- HB 1688 Prohibits certain sales tax revenue from inclusion as economic activity tax revenue for TIF projects
- HB 1707 Allows local registrars to be an employee of either a county or city health agency and gives the Jackson County Recorder of Deeds more discretion regarding where documents are recorded

KANSAS CITY

- SB 825 Creates the "Kansas and Missouri Regional Investment District Compact" to promote public transit projects within the Kansas City metropolitan area

LAW ENFORCEMENT OFFICERS AND AGENCIES

- SB 785 Allows any jailer to serve an arrest warrant on a person who is already an inmate in the custody of the jailer
- SB 830 Changes provisions regarding military leave for Kansas City police officers and civilian employees
- SB 871 Modifies provisions regarding distribution payments in the St. Louis Police Retirement System
- SB 872 Enacts various provisions relating to the safe operation of motor vehicles to ensure the safety of highway workers, emergency workers and other motorists
- SB 1059 Designates a portion of I-55 in St. Louis County as the "Officer Thomas G. Smith Jr. Memorial Highway"
- SB 1086 Grants the St. Louis Board of Police Commissioners the authority to establish police officer salaries without prior authorization from the General Assembly
- SB 1139 Designates the portion of Highway 21 from the intersection of Lindbergh Avenue to the intersection of Gravois Road in St. Louis County as the "Sergeant William McEntee Memorial Highway"
- HB 1138 Changes provisions regarding military leave for Kansas City police officers and civilian employees
- HB 1204 Allows any jailer to serve an arrest warrant on a person who is already an inmate in the custody of the jailer
- HB 1393 Allows the Superintendent of the State Highway Patrol to set the circumstances under which members of the patrol may be engaged in secondary employment
- HB 1698 Modifies laws relating to sexual offenders

LIABILITY

- HB 1617 Adds to the circumstances where a landowner does not assume liability for injuries caused on his or her land

LIBRARIES AND ARCHIVES

- SB 936 Allows county library boards to issue bonds for up to 5% of the value of property within the district instead of 1%

LICENSES - DRIVER'S

- SB 1001 Modifies lawful presence requirements for driver's licenses, modifies graduated driver's license law and allows the Highway Commission to revoke licenses and registrations of motor carriers in certain circumstances

LICENSES - MOTOR VEHICLE

- SB 583 Establishes a decentralized emission inspection program which utilizes on-board diagnostic testing on certain motor vehicles
- SB 1001 Modifies lawful presence requirements for driver's licenses, modifies graduated driver's license law and allows the Highway Commission to revoke licenses and registrations of motor carriers in certain circumstances
- HB 1382 Modifies various provisions relating to specialized military license plates
- HB 1762 Exempts persons who present proof of permanent disability from the United States Veterans Administration from the four-year certification requirement for renewal of disabled license plates and allows advanced practice registered nurses to issue statements to obtain disabled

LICENSES - PROFESSIONAL

- SB 747 Requires used car dealers to complete educational seminars in order to obtain a license
- SB 749 Modifies minimum experience requirements for interior designer registration
- SB 756 Modifies requirements for licensing and registration of certain professionals
- SB 819 Modifies licensure requirements for professional engineers and land surveyors
- SB 828 Repeals the sunset provision for dental hygienists
- SB 934 Creates a grace period for barber shop licensure when the establishment changes ownership or location
- SB 980 Modifies the student loan program for nursing students
- HB 1234 Revises the nursing student repayment loan program
- HB 1339 Modifies licensing requirements for real estate brokers
- HB 1494 Modifies licensure requirements for professional engineers and land surveyors
- HB 1515 Requires physicians to report to provide information regarding collaborative practice arrangements
- HB 1759 Modifies requirements for licensure of athletic trainers

LIENS

SB 1057 Includes physical therapists in the definition of health practitioner for the purposes of liens

LOBBYING

HB 1900 Modifies law relating to campaign finance and lobbyist reporting requirements

MEDICAID

SB 822 Extends FRA, Pharmacy Tax, Nursing Facility reimbursement allowance, and Medicaid managed care reimbursement allowance sunsets

SB 1084 Extends the sunset date for the Healthcare for Uninsured Children Program and non-Medicaid eligible personal care services

HB 1491 Requires the Family Support Division to urge Medicaid applicants to use federal veterans' benefits

MEDICAL PROCEDURES AND PERSONNEL

SB 765 Enacts provisions relating to emergency medical treatment

HB 1222 Allows coroners or medical examiners to appoint special deputy coroners or medical examiners in emergencies

HB 1601 Enacts provisions relating to emergency medical treatment

MENTAL HEALTH

SB 648 Replaces the term "lunatic asylum" with "mental health facility" in statute about fire escapes and stairs

SB 974 Extends date for the Department of Mental Health to complete mental health services plans for persons on waitlists

MENTAL HEALTH DEPARTMENT

SB 974 Extends date for the Department of Mental Health to complete mental health services plans for persons on waiting lists

MILITARY AFFAIRS

SB 578 Prohibits protest activities during funeral services

SB 701 Modifies educational assistance benefits for Missouri National Guard members

SB 830 Changes provisions regarding military leave for Kansas City police officers and civilian employees

- SB 845 Modifies fees and reinstatement processes in the event of corporate administrative dissolution
- SB 964 Modifies provisions regarding the appointment and duties of assistant adjutants general
- SB 1060 Modifies provisions regarding the tax contribution designation for the Missouri Military Family Relief Fund
- HB 978 Establishes the "Vietnam War Medallion Program" and the "Vietnam War Veteran's Recognition Award Fund"
- HB 983 Requires the United States and the Missouri state flags to be flown at half-staff on all government buildings on September 11 of each year
- HB 984 Encourages all government buildings, businesses, and state citizens to display the POW/MIA flag on certain dates
- HB 1026 Prohibits protest activities during funeral services
- HB 1138 Changes provisions regarding military leave for Kansas City police officers and civilian employees
- HB 1382 Modifies various provisions relating to specialized military license plates
- HB 1552 Allows homeless veterans to use addresses of certain charitable organizations on applications for state or federal assistance
- HB 1787 Creates the "Guard at Home" program to assist families of deployed guard members

MORTGAGES AND DEEDS

- SB 892 Modifies law relating to financial institutions

MOTOR CARRIERS

- SB 1001 Modifies lawful presence requirements for driver's licenses, modifies graduated driver's license law and allows the Highway Commission to revoke licenses and registrations of motor carriers in certain circumstances

MOTOR VEHICLES

- SB 583 Establishes a decentralized emission inspection program which utilizes on-board diagnostic testing on certain motor vehicles
- SB 747 Requires used car dealers to complete educational seminars in order to obtain a license
- SB 872 Enacts various provisions relating to the safe operation of motor vehicles to ensure the safety of highway workers, emergency workers and other motorists
- HB 1762 Exempts persons who present proof of permanent disability from the United States Veterans Administration from the four-year certification

requirement for renewal of disabled license plates and allows advanced practice registered nurses to issue statements to obtain disabled

NATIONAL GUARD

- SB 701 Modifies educational assistance benefits for Missouri National Guard members
- SB 964 Modifies provisions regarding the appointment and duties of assistant adjutants general
- HB 1787 Creates the "Guard at Home" program to assist families of deployed guard members

NATURAL RESOURCES DEPARTMENT

- SB 583 Establishes a decentralized emission inspection program which utilizes on-board diagnostic testing on certain motor vehicles
- SB 1165 Extends the fees imposed under the water pollution statutes until December 31, 2009

NURSES

- SB 980 Modifies the student loan program for nursing students
- HB 1234 Revises the nursing student repayment loan program
- HB 1245 Authorizes school nurses to keep on hand and administer prefilled syringes of epinephrine to any student who is having an anaphylactic reaction
- HB 1515 Requires physicians to report to provide information regarding collaborative practice arrangements

NURSING AND BOARDING HOMES

- SB 616 Prescribes requirements for assisted living facilities

PHARMACY

- SB 822 Extends FRA, Pharmacy Tax, Nursing Facility reimbursement allowance, and Medicaid managed care reimbursement allowance sunsets
- HB 1687 Provides for unused drugs to be donated to charities for distribution outside the state or abroad

PHYSICIANS

- SB 765 Enacts provisions relating to emergency medical treatment
 - HB 1515 Requires physicians to report to provide information regarding collaborative practice arrangements
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HB 1601 Enacts provisions relating to emergency medical treatment

POLITICAL SUBDIVISIONS

SB 561 Limits the amount of revenue expenditures from gaming boat admission fees

SB 1056 Modifies the method of how community improvement districts may impose sales taxes

PRISONS AND JAILS

SB 785 Allows any jailer to serve an arrest warrant on a person who is already an inmate in the custody of the jailer

HB 1204 Allows any jailer to serve an arrest warrant on a person who is already an inmate in the custody of the jailer

PROPERTY, REAL AND PERSONAL

SB 1045 Provides that the statute of limitations for recovery of lands does not extend to lands held by public utilities

HB 1339 Modifies licensing requirements for real estate brokers

HB 1617 Adds to the circumstances where a landowner does not assume liability for injuries caused on his or her land

PUBLIC ASSISTANCE

HB 1491 Requires the Family Support Division to urge Medicaid applicants to use federal veterans' benefits

HB 1552 Allows homeless veterans to use addresses of certain charitable organizations on applications for state or federal assistance

PUBLIC BUILDINGS

HB 983 Requires the United States and the Missouri state flags to be flown at half-staff on all government buildings on September 11 of each year

HB 984 Encourages all government buildings, businesses, and state citizens to display the POW/MIA flag on certain dates

PUBLIC OFFICERS

SB 964 Modifies provisions regarding the appointment and duties of assistant adjutants general

- HJR 55 Proposes a constitutional amendment prohibiting public officials convicted of a felony or removed for misconduct from receiving any state pension and modifies the veto power of the General Assembly over salary recommendations

PUBLIC SAFETY DEPARTMENT

- SB 933 Transfers the duty of appointing railroad policemen from the Highway Patrol to the Director of the Department of Public Safety
- HB 1509 Modifies the duties of the State Fire Marshal
- HB 1787 Creates the "Guard at Home" program to assist families of deployed guard members

PUBLIC SERVICE COMMISSION

- SB 558 Removes the termination date for experimental tariffs put in place by the Public Service Commission and gas corporations for schools
- SB 1066 Provides certain telecommunication companies the opportunity to request a waiver from the requirement that tariffs be filed to reduce rates for any service in which the current rate exceeds the maximum allowable price

RAILROADS

- SB 933 Transfers the duty of appointing railroad policemen from the Highway Patrol to the Director of the Department of Public Safety

RETIREMENT - SCHOOLS

- HB 1449 A substitute or part-time teacher employed within one year of the teacher's retirement shall not be subject to an additional background check

RETIREMENT SYSTEMS AND BENEFITS - GENERAL

- SB 830 Changes provisions regarding military leave for Kansas City police officers and civilian employees
- SB 871 Modifies provisions regarding distribution payments in the St. Louis Police Retirement System
- HB 1138 Changes provisions regarding military leave for Kansas City police officers and civilian employees
- HB 1344 Modifies provisions regarding the Firemen's Retirement System of St. Louis

REVENUE DEPARTMENT

- SB 583 Establishes a decentralized emission inspection program which utilizes on-board diagnostic testing on certain motor vehicles
- SB 630 Modifies eligibility requirements for the Homestead Preservation Tax Credit
- SB 678 Repeals the quarterly tax collections report requirement for temporary tax collection
- SB 747 Requires used car dealers to complete educational seminars in order to obtain a license
- SB 870 Transfers responsibility for existing appropriation payments from the Office of Administration to other state agencies
- SB 1001 Modifies lawful presence requirements for driver's licenses, modifies graduated driver's license law and allows the Highway Commission to revoke licenses and registrations of motor carriers in certain circumstances
- SB 1060 Modifies provisions regarding the tax contribution designation for the Missouri Military Family Relief Fund
- HB 1382 Modifies various provisions relating to specialized military license plates
- HB 1440 Creates an income tax checkoff for donations for cervical cancer awareness and treatment
- HB 1485 Creates a tax credit for contributions to centers providing social services

ROADS AND HIGHWAYS

- SB 667 Designates several portions of highways within Missouri after Missouri highway patrolmen
- SB 840 Modifies the highway and bridge naming process and allows the Highway Commission to dispose of excess real property under certain conditions
- SB 872 Enacts various provisions relating to the safe operation of motor vehicles to ensure the safety of highway workers, emergency workers and other motorists
- SB 990 Designates various sections of state highways after law enforcement
- SB 1059 Designates a portion of I-55 in St. Louis County as the "Officer Thomas G. Smith Jr. Memorial Highway"
- SB 1139 Designates the portion of Highway 21 from the intersection of Lindbergh Avenue to the intersection of Gravois Road in St. Louis County as the "Sergeant William McEntee Memorial Highway"
- HB 1380 Creates the "Missouri Public-Private Partnerships Transportation Act"
- HB 1488 Designates a portion of Interstate 55 in Jefferson County as the "Officer Thomas G. Smith Jr. Memorial Highway"

SAINT LOUIS

SB 1086 Grants the St. Louis Board of Police Commissioners the authority to establish police officer salaries without prior authorization from the General Assembly

SALARIES

SB 1086 Grants the St. Louis Board of Police Commissioners the authority to establish police officer salaries without prior authorization from the General Assembly

SCIENCE AND TECHNOLOGY

SB 1008 Creates the "Governor's Advisory Council on Agricultural Science and Technology"

SECRETARY OF STATE

SB 845 Modifies fees and reinstatement processes in the event of corporate administrative dissolution

SB 1014 Modifies law relating to election administration

HB 1427 Modifies fees and reinstatement processes in the event of corporate administrative dissolution

SECURITIES

SB 718 Modifies the authority of the Development Finance Board to grant loans

SEWERS AND SEWER DISTRICTS

SB 802 Defines the terms "owner", "registered voter" and "voter" when used in provisions about certain sewer districts

HB 1149 Pertains to the regulation of water

SOCIAL SERVICES DEPARTMENT

SB 614 Creates an income tax credit for contributions to residential treatment agencies

SB 618 Provides that electronic access cards may be issued to custodial parents for disbursement of child support payments

SB 1084 Extends the sunset date for the Healthcare for Uninsured Children Program and non-Medicaid eligible personal care services

SB 1117 Modifies provisions of the Missouri Rx Plan Advisory Commission

HB 1491 Requires the Family Support Division to urge Medicaid applicants to use federal veterans' benefits

SURVEYORS

- SB 819 Modifies licensure requirements for professional engineers and land surveyors
HB 1494 Modifies licensure requirements for professional engineers and land surveyors

TAXATION AND REVENUE - GENERAL

- SB 561 Limits the amount of revenue expenditures from gaming boat admission fees
SB 822 Extends FRA, Pharmacy Tax, Nursing Facility reimbursement allowance, and Medicaid managed care reimbursement allowance sunsets
SB 1002 Allows the imposition of an additional fee for drainage districts
SB 1229 Creates a tax credit for children in crisis
HB 1485 Creates a tax credit for contributions to centers providing social services
HB 1688 Prohibits certain sales tax revenue from inclusion as economic activity tax revenue for TIF projects

TAXATION AND REVENUE - INCOME

- SB 614 Creates an income tax credit for contributions to residential treatment agencies
SB 641 Requires all contributions to the Missouri Higher Education Savings Program be held for twelve months
SB 678 Repeals the quarterly tax collections report requirement for temporary tax collection
SB 1060 Modifies provisions regarding the tax contribution designation for the Missouri Military Family Relief Fund
HB 1440 Creates an income tax checkoff for donations for cervical cancer awareness and treatment

TAXATION AND REVENUE - PROPERTY

- SJR 26 Exempts property owned by veterans' organizations from taxation
SB 561 Limits the amount of revenue expenditures from gaming boat admission fees
SB 630 Modifies eligibility requirements for the Homestead Preservation Tax Credit
SB 778 Requires proof of payment of personal property taxes on certain vessels, raises vessel fees and creates the "Missouri State Water Patrol Fund"

TAXATION AND REVENUE - SALES AND USE

- SB 561 Limits the amount of revenue expenditures from gaming boat admission fees
- SB 678 Repeals the quarterly tax collections report requirement for temporary tax collection
- SB 825 Creates the "Kansas and Missouri Regional Investment District Compact" to promote public transit projects within the Kansas City metropolitan area
- SB 893 Modifies provisions relating to taxes for emergency services and fire protection
- SB 1056 Modifies the method of how community improvement districts may impose sales taxes
- SB 1207 Allows New Madrid County to impose an additional sales tax, which proceeds shall be shared among the county and the cities, towns and villages within the county

TEACHERS

- SB 580 Requires collaboration between certain departments in order to achieve a more efficient and effective educational system
- SB 725 Alters provisions regarding alcoholic beverages
- SB 894 Renders multiple alterations to the state's education policy
- HB 1449 A substitute or part-time teacher employed within one year of the teacher's retirement shall not be subject to an additional background check
- HB 1732 Broadens and alters the criteria for permissible self-administered medications in public schools

TELECOMMUNICATIONS

- SB 1066 Provides certain telecommunication companies the opportunity to request a waiver from the requirement that tariffs be filed to reduce rates for any service in which the current rate exceeds the maximum allowable price

TELEVISION

- SB 870 Transfers responsibility for existing appropriation payments from the Office of Administration to other state agencies

TOURISM

- SB 1216 Modifies the law relating to travel clubs

TRANSPORTATION

- SB 825 Creates the "Kansas and Missouri Regional Investment District Compact" to promote public transit projects within the Kansas City metropolitan area
- SB 931 Gives property owners one vote per acre when electing directors for a transportation development district
- HB 1380 Creates the "Missouri Public-Private Partnerships Transportation Act"

TRANSPORTATION DEPARTMENT

- SB 667 Designates several portions of highways within Missouri after Missouri highway patrolmen
- SB 840 Modifies the highway and bridge naming process and allows the Highway Commission to dispose of excess real property under certain conditions
- SB 872 Enacts various provisions relating to the safe operation of motor vehicles to ensure the safety of highway workers, emergency workers and other motorists
- SB 1139 Designates the portion of Highway 21 from the intersection of Lindbergh Avenue to the intersection of Gravois Road in St. Louis County as the "Sergeant William McEntee Memorial Highway"
- HB 1380 Creates the "Missouri Public-Private Partnerships Transportation Act"
- HB 1488 Designates a portion of Interstate 55 in Jefferson County as the "Officer Thomas G. Smith Jr. Memorial Highway"

TREASURER, STATE

- SB 641 Requires all contributions to the Missouri Higher Education Savings Program be held for twelve months
- SB 1060 Modifies provisions regarding the tax contribution designation for the Missouri Military Family Relief Fund

UNEMPLOYMENT COMPENSATION

- HB 1456 Modifies law regarding unemployment security

UTILITIES

- SB 558 Removes the termination date for experimental tariffs put in place by the Public Service Commission and gas corporations for schools
- SB 559 Considers any municipality, governmental unit, or public corporation created under the laws of any state or the United States a person
- HB 1149 Pertains to the regulation of water

VETERANS

- SJR 26 Exempts property owned by veterans' organizations from taxation
SB 578 Prohibits protest activities during funeral services
SB 1026 Authorizes the Lieutenant Governor to administer certain veterans' programs and funds
HB 978 Establishes the "Vietnam War Medallion Program" and the "Vietnam War Veteran's Recognition Award Fund"
HB 983 Requires the United States and the Missouri state flags to be flown at half-staff on all government buildings on September 11 of each year
HB 984 Encourages all government buildings, businesses, and state citizens to display the POW/MIA flag on certain dates
HB 1026 Prohibits protest activities during funeral services
HB 1552 Allows homeless veterans to use addresses of certain charitable organizations on applications for state or federal assistance

WATER PATROL

- SB 778 Requires proof of payment of personal property taxes on certain vessels, raises vessel fees and creates the "Missouri State Water Patrol Fund"

WATER RESOURCES AND WATER DISTRICTS

- HB 1149 Pertains to the regulation of water

WEAPONS

- SB 919 Repeals the statute permitting the city council of a third-class city to prohibit the carrying of concealed weapons
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